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PREPARATORY COMMISSION FOR THE INTERNATIONAL SEABED AUTHORITY AND FOR THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA
Special Commission 1
Eleventh session
Kingston, 22 March-2 April 1993

# DRAFT PROVISIONAL REPORT OF SPECIAL COMMISSION 1

## Addendum

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## STATEMENT TO THE PLENARY BY THE CHAIRMAN OF SPECIAL COMMISSION 1 ON THE PROGRESS OF WORK IN THAT COMMISSION

1. Special Commission 1 is entrusted with the task of undertaking studies on the problems which would be encountered by developing land-based producer States likely to be most seriously affected by the production of minerals derived from the Area with a view to minimizing their difficulties and helping them to make the necessary economic adjustment, including studies on the establishment of a compensation fund, and submitting recommendations to the Authority thereon, through the Preparatory Commission.

2. The broad topic and the purpose of the studies are defined in the above mandate and it is the understanding of the Special Commission that the recommendations will be the end results of its work. In studying the problems of developing land-based producer States, it is necessary to know, first which minerals would be produced from sea-bed sources; second, how the introduction of the minerals from this new source would affect the existing land-based sources; third, what would these effects be and which developing States would be affected; fourth, what problems or difficulties in connection with these effects, these developing States would encounter; and finally, what could be done to minimize these difficulties. This logically structured framework led to the adoption of a programme of work by the Special Commission in its first meeting of this session, immediately after the adoption of the agenda which is contained in document LOS/PCN/SCN.1/1984/CRP.1. The programme of work reflecting the above framework is contained in document LOS/PCN/SCN.1/1984/CRP.2.

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3. The Special Commission held seven meetings and the Bureau of the Special Commission met four times. In addition to CRP.1 and CRP.2, the Special Commission had before it a background paper prepared by the Secretariat, LOS/PCN/SCN.1/WP.1, which presents an overview of the broad topic to be studied by the Special Commission along with some options regarding possible approaches to study the topic and pertinent statistics. Other Law of the Sea Conference documents which are of relevance to the work of the Special Commission, for example, documents A/CONF.62/L.84 and Add.1, and A/CONF.62/L.66 were also available.

4. The first two meetings of this session were devoted to a general discussion of these documents. A need was, then, felt for a somewhat detailed outline of each of the six items in the programme of work in order that the delegates could get a better grasp of the work of the Special Commission. In response to this need, the Bureau, on the basis of the above documents and the exchange of views during the general discussion proposed a list of issues that need to be dealt with by the Special Commission under the programme of work. This is contained in document LOS/PCN/SCN.1/1984/CRP.3.

5. Focussed discussion on this document and the relevant parts of WP.1 followed after the introduction of the document. In view of the broadness of the scope of the work of the Special Commission, delegations necessarily concentrated on selected items as they deemed appropriate. It was deemed more fruitful at this initial stage to have a broad-ranging discussion rather than an issue-by-issue discussion or a discussion of issues on a priority basis. This facilitated in dissecting the work the Special Commission had in front of it, in refining the outline of the work and thereby in precisely defining the scope and content of the work. A valuable by-product of the broad-ranging discussion was the emergence of general agreement on some of the issues that have been raised in CRP.3. For example, on the question whether the Special Commission should deal with each of the fifty or so minerals contained in polymetallic nodules or it should limit itself to the minerals which appear to be economically exploitable, there was a general agreement that the Special Commission, at this time, should concentrate on copper, nickel, cobalt and manganese, but it should keep in view the trends and developments regarding the other minerals. Similar agreement emerged about concentrating its work on polymetallic nodules, at the same time keeping in view the trends and developments regarding minerals other than polymetallic nodules, for example, polymetallic sulphides, cobalt-rich manganese crusts, etc. With regard to the question whether the Special Commission should assess the relationship between production from the Area and existing land-based production on a mineral-by-mineral basis, it was generally agreed that a mineral by mineral assessment is the most appropriate one. Furthermore, it was generally felt that the framework of assessment has to be essentially a long term one, on an on-going

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basis, however, short-term and medium-term frameworks should also be kept under consideration. Similarly, on the question of whether the effects of production in the Area should be considered on a State-by-State basis, it was deemed most relevant to give consideration on a State-by-State basis.

6. In the course of the discussion, it became apparent that two things were absolutely essential to form the basis of the work of the Special Commission - a set of relevant information and data, and a methodology to process these information and data for the purpose of the Special Commission. It was also apparent that at this time, no given set of information and data and no given methodology will serve the purpose, rather, both the tasks of information collection and formulation of methodology will be an on-going process so that at the time when the Authority needs to act, it will have at its disposal an accumulated set of information and data appropriate for its purpose and a methodology properly tailored to form the basis for timely action by the Authority.

7. The attention of the Special Commission concentrated on the relevant information and data. It was immediately felt that at this time, the Special Commission is not in a position to fix the items on which information and data will be needed. This also has to be an on-going process however a start can be made. As a first step, three types of information and data have been identified to be essential: information on the minerals and their markets, production, consumption, exports, imports, direction of trade, price, etc., information on the developing land-based producer States, their production, the significance of the minerals in their economies, and information on the existing international or multilateral economic measures which could be of relevance to the work of the Special Commission. Accordingly, a request is being made to the Secretariat to provide the information available in the public domain. This request is contained in document LOS/PCN/SCN.1/1984/CRP.4 and Corr.1. The Special Commission also felt that States themselves could be requested through the Secretariat to provide similar and other information and data. Accordingly, the Secretariat is being requested to transmit a circular letter to States in this regard. Finally, updating of some information contained in the Conference document L.84 can be useful and the Secretariat is requested to do so. These two latter requests are contained in document LOS/PCN/SCN.1/1984/CRP.4/Add.1 and Corr.1. On behalf of the Special Commission, I would appreciate it if the Commission could endorse and strengthen these requests and mandate the Secretariat accordingly.

8. In addition, a need was also felt for research studies on certain specific issues at an appropriate time. For example, studies on the nature and extent of controlled and free markets in the four minerals concerned, on the effects of possible substitutes, on the demand for these minerals, on estimates of costs of production from land-based sources as well as sea-bed sources, and on the identification and problems of developing States which may be potential land-based producers would be extremely useful.

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9. In view of the technical nature of the work of the Special Commission, a number of delegations suggested the formation of a Working Group of technical experts. However, most of the delegations felt that at this time, the Special Commission provides the appropriate forum to dissect, define and refine the scope and content of its work and the efficacy of a Working Group can be ensured only after this has been accomplished. Nevertheless, we have been able to devise a happy median - open-ended meetings of the Bureau with the participation of any interested delegation which feels it can provide the technical expertise. This device has been highly successful - one of the outcomes of this forum has been the documents CRP.4 and CRP.4/Add.1.

10. In accomplishing the task entrusted to the Special Commission, I envisage a two-pronged strategy. One is the collection and dissemination and, over time, accumulation of the necessary data and information by the Secretariat related to some of the issues outlined in CRP.3. The other is the work of the delegations themselves - delegations are going home with an expanded outline of the topic to be studied, in the form of CRP.3. During the intersessional period, I would urge them to study the outline, obtain information, advice and assistance from technical experts in their countries, have some research carried out and come back in the next session, preferably with some answers or options regarding some of the issues raised in the document. In the next session we will then refine and consolidate the efforts of the two prongs which, in turn, will, hopefully, form the basis for tackling the core of the matter entrusted to the Special Commission. In this connection, I would like to urge delegations to bring to the next session relevant technical expertise to the greatest extent possible. Inclusion of technical experts in the delegations will be helpful in dealing with the matters of technical nature within the purview of the Special Commission.

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## STATEMENT TO THE PLENARY BY THE CHAIRMAN OF SPECIAL COMMISSION 1 ON THE PROGRESS OF WORK IN THAT COMMISSION

1. Special Commission 1 had nine meetings and the open-ended Bureau of the Special Commission met three times during this session. The Special Commission had before it, in addition to those previously available, three new documents namely LOS/PCN/SCN.1/WP.2 and Adds. 1 and 2, prepared by the Secretariat in response to the request made by it during the last session.

2. Before the Special Commission started the series of meetings, the Bureau, in an open-ended meeting, agreed to recommend that during this session the Special Commission should aim at three targets: (1) identification of the developing land-based producer States likely to be affected by the production of minerals from the Area; (2) identification of the problems that may be encountered by these States; and (3) identification of measures that can minimize their difficulties and help them to make the necessary economic adjustment. These three targets correspond to items 3, 4 and 5 in document LOS/PCN/SCN.1/1984/CRP.3 entitled: "List of issues to be dealt with under the programme of work" of Special Commission 1, adopted by the Special Commission during the last session. The Bureau also recommended that the work during this session should be conducted through stages, namely, general discussion on the basis of the available documents to be followed by detailed discussion and study of the four minerals on which Special Commission is focussing its attention at this moment - copper, nickel, cobalt and manganese. The recommendations of the Bureau were accepted by the Special Commission in its first meeting of this session.

3. The Special Commission, in its deliberations during the nine meetings concentrated on these three targets on the basis of the data and information provided in the three Secretariat documents. I am pleased to report that we succeeded in having an extensive and in-depth discussion on the first target. We also were relatively successful in dealing with the third target. The second target was touched upon, although less extensive discussion took place.

4. The discussion on the identification of "developing land-based producer States likely to be most seriously affected by the production of minerals derived from the Area" involved several aspects. First, it was rightly pointed out that according to article 150(h) of the Convention, the criteria

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to be used to identify affected land-based producer States are the "adverse effects on their economies or export earnings resulting from a reduction in the price of an affected mineral, or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area". These criteria are repeated in article 151, paragraph 10.

5. Secondly, the most practical way of identifying land-based producer States that might be most seriously affected is on the basis of relevant statistics.

6. Thirdly, a very useful exchange of views took place about the yardstick to be used to measure the effects of sea-bed production. It was expressed that export earnings could be used as a yardstick, since these are relatively easy to quantify and can be observed from export statistics. On the other hand, the effects on the economy are difficult to identify and quantify because they may involve future economic planning, the role of the minerals in the economy, the role of the minerals in the socio-economic structure of the State, etc. On the basis of these considerations, it was suggested that the yardstick should be the most practical one, namely, export earnings.

7. However, with regard to the effects on the economy, it was also felt that once we have all the necessary information about the over-all economic picture and the role of the mineral sector, some kind of quantification may be possible. Thus, the Special Commission should also pay attention to the identification and quantification of some yardsticks reflecting the effects on the economy.

8. Even in the case of export earnings which are relatively easily identifiable the Special Commission may have to take a decision whether the yardstick should be: (a) the value of export earnings (with proper adjustment for barter trade) of one or more of the four mineral commodities; or (b) the ratio of export earnings from one or more of the four mineral commodities to the total export earnings of a praticular State.

9. With regard to the effects on the economy a few preliminary suggestions about appropriate yardsticks were as follows: (a) the value of production of one or more of the four minerals in the developing land-based producer States, whether these minerals are exported or not; and (b) the ratio of the value of exports of one or more of these four minerals to the gross domestic product (GDP) of the developing land-based producer State.

10. In view of the fact that there can be several yardsticks involved, it would seem appropriate for the Special Commission to deliberate on a combination of these yardsticks mentioned above, rather than one particular yardstick.

11. Fourthly, since the Special Commission is entrusted with the task of studying the problems of land-based producer States that are likely to be "most seriously affected" by sea-bed production, some criteria have to be devised to catagorize these Sates. A useful suggestion was made that the idea of a "threshold" level of a given yardstick could be used for this purpose. For example, if the export earnings of a particular developing land-based producer State of one or more of the four mineral commodities concerned exceed "x" dollars, it could be considered to be likely to be "most seriously affected". Or, if the ratio of export earnings from one or more of the four minerals concerned to the total export earnings of a particular developing land-based producer State exceeds "y" percentage, it could be considered to be likely to be "most seriously affected". A further suggestion was made that these "threshold" levels could vary, taking into account certain factors mentioned in paragraph 17 below.

12. Fifthly, it was suggested by some delegations that while the above criteria and yardsticks will be used in identifying the developing land-based producer States likely to be affected or most seriously affected, those States could be identified as of now, taking into consideration their present exports or production of one or more of the four mineral commodities concerned. On the basis of the statistics on exports or porduction in 1981-1982 (1982 being the year when the Convention on the Law of the Sea was adopted and opened for signature), a number of developing land-based producer States may be affected by the future sea-bed production (based on the statistics in table B.II.2.2 in document LOS/PCN/SCN.1/WP.2/Add.1).

13. However, another view was expressed that those States cannot be identified now because sea-bed production is still years away, and identification is possible only in the future when sea-bed production will take place. Some delegations explained how the actual situation could change in 10-15 years, and how these countries which are engaged in developing mining programmes could be more seriously affected than what appears now.

14. There was a general agreement that while a preliminary identification of the developing States can be carried out on the basis of statistics on current exports or production, the final identification will have to be made at the time sea-bed production occurs.

15. In this connection, the usefulness of having timely statistics at the disposal of the Special Commission and later, of the Authority, was recognized. It was agreed that the collection, processing and dissemination of statistics is an on-going process. A few delegations suggested that a group of experts be formed for this purpose. But the predominant view was that the initial efforts of the Secretariat as reflected in the document LOS/PCN/SCN.1/WP.2/Add 1 were satisfactory and the Secretariat should continue the task in the future.

16. I would like to take this opportunity to remind delegations that the formation of the statistical base for the work of the Special Commission should be based on a two-pronged approach: 1) the Secretariat should continue updating statistics collected from published sources, including national governmental publications and publications of Regional Commissions; and 2) at the same time, the States themselves should transmit to the Secretariat the responses to the note verbale from the Secretary-General, requesting certain statistics.

17. Finally, interrelated with the discussion on the criteria and yardsticks for the identification of States likely to be affected, it was suggested by some delegations that certain factors may make a particular developing State more likely to experience adverse effects on its economy or export earnings in the future when sea-bed production takes place. These factors may need to be taken into account and suggestions were made that these factors include, *inter alia*: (a) production capabilities of a particular State for one or more of the four minerals concerned; (b) projected future production; (c) reserves; (d) gross national product (GNP) and per capita income; (e) population; (f) size of the area of the particular State; and (g) geographical location of the State.

18. It was also suggested that one crucial factor is the potential degree of vulnerability of land-based production to sea-bed production. A view was expressed that in terms of potential degree of vulnerability, cobalt, nickel and copper are in a descending order. Manganese will rank after cobalt; however, the economics and technology of manganese production from polymetallic nodules are quite uncertain. Incidentally, a similar point was made in paragraphs 3 and 4 of document LOS/PCN/SCN.1/WP.1 issued during the last session.

19. With regard to the identification of the problems that may be ecountered by affected developing land-based producer States, the discussion was of a very preliminary nature. In general, in the discussion, the problems to be encountered were related to the effects of sea-bed production and clear distinction was not made between effects and problems resulting from these effects.

20. With regard to the identification of remedial measures, the profiles of the four mineral industries presented in the Secretariat paper WP.2 were used as a vehicle. A thorough examination was carried out of the four mineral industries concerned.

21. As to the copper industry, if the present trends continue, the prospects for the future of this industry do not appear bright. The currently projected growth rate of future copper demand is not high; copper is facing a challenge from recycling and substitution. Copper is important for developing countries: they are among the major producers and exporters; a substantial part of the world copper reserves are in these countries; relative to developed countries, the rate of growth of copper consumption has been high in developing countries in the recent period and has the potential of being higher with increasing industrialization in developing countries. However, major consumers of copper are developed countries and some of these countries are potential sea-bed producers. This is an additional challenge for the copper industry in developing land-based producer States.

22. The future growth rate of nickel is the basis for the production limitation formula in article 151 of the Convention. Nickel has witnessed a slow growth rate and even an absolute decrease in consumption in recent years, mainly because of the recession in the world economy. The future gowth rate cannot be predicted with any accuracy, but it is very likely that the high growth rate enjoyed by the nickel industry in the post-World War II period will be difficult to sustain in the future. Among the land-based deposits, laterites, which are located primarily in developing countries, are expected to supply increasingly greater shares of nickel demand in the future. Nickel from sea-bed nodules will thus compete with developing countries' supply - the competition will be essentially based on comparative costs which are difficult to forecast at this time, although other considerations, e.g., foreign exchange availability, may be important.

23. As to the cobalt market, in recent years it has witnessed tremendous fluctuations in prices over a short period. High prices led to substitution and a widening of the supply base with developed countries supplying more cobalt than before. Land-based reserves in developing countries are large. The market is limited, yet in this limited market, the strategic importance of cobalt is a significant factor. Any new production, e.g., from sea-bed nodules, will have a great impact on the market. This can affect the profitability of both land-based and sea-bed producers.

24. Manganese is an essential input to the steel industry and there are no practical substitutes for it. It is a strategically important metal. But the reserves from which production can economically take place in the near future are concentrated in a few countries. The economics of manganese production from sea-bed nodules are uncertain relative to those of other metals. However, considerations other than costs and revenues, e.g., strategic value and cost of disposal of tailings containing manganese, may be important factors when a decision is taken about manganese production from nodules.

25. In the process of the examination of the four mineral industries, a number of suggestions about remedial measures were made. These suggestions were also reiterated in the course of a preliminary examination of the Secretariat paper WP.2/Add.2 providing information on existing international or multilateral economic measures which could be of relevance to the work of the Special Commission.

26. These suggested measures were of various types. All the six examples presented in document WP.2/Add.2 were considered useful and the delegations decided to study them in-depth during the interessional period in order to determine the extent to which they could be applicable for the purpose of the Special Commission. Broadly speaking, these examples relate to measures falling under the categories of structural adjustment assistance, assistance for the maintenance of viable production and export capacity, promotion of trade, commodity agreements, buffer stocking and commodity development measures, and compensatory measures for short-term export shortfalls. It was generally maintained that, if a commodity focus is adopted, commodity agreements based on international co-operation among producers and consumers were the most preferrable measures. Special mention was also made of facilitating access to markets, removal of trade barriers, both tariff and non-tariff, and compensatory measures.

27. In the context of international and multilateral economic measures in the field of mineral commodities, views were expressed that the North-South dialogue should be strengthened and the negotiations being carried out in various international and multilateral fora should be reinforced.

28. Emphasis was placed on fostering indigenous industrial base in the developing countries themselves. Several measures were identified in this area: (a) mineral-based industralization in developing countries so that the processing and fabrication activities take place in developing countries, on one hand, and the end-products are consumed in developing countries, on the other; (b) related to this, increasing trade among developing countries; (c) acquisition of technology or development of technology through indigenous R&D efforts; and (d) in addition to mineral-based industrialization, diversification of the economies of developing countries. The strengthening of regional co-operation and overall South-South co-operation was empahsized. A view was expressed that developing countries should embark on these programmes on a priority basis. There were also suggestions that the problems could be solved through the establishment of associations of developing land-based producers of the minerals concerned; however, contrary views were expressed regarding this suggestion.

29. In conclusion, it is my view which, I believe, is supported by all the delegations in the Special commission, that starting from the stage of drawing up a work programme in the last session, over the course of this session, the Special Commission has made considerable progress in carrying out the task entrusted to it. I would like to urge the delegations that in the next session: (a) we attempt to give concrete shape to the results achieved in the area of the identification of the developing land-based producer States likely to be most seriously affected; (b) we carry out an in-depth examination of the issue of the identification of the problems of these States; (c) we take up the complex issue of the measurement of possible effects of sea-bed production, perhaps with the use of projection methods; and (d) we investigate the suggested remedial measures throughly and try to identify any other measures or a combination of measures.

30. In the intersessional period, delegations should urge their governments to respond to the note verbale, if possible by 30 November 1984, so that the Secretariat can prepare a paper for us presenting statistical tables, the sources of statistics being the States themselves rather than published materials. This will augment our statistical base immensely. Furthermore, the delegations as well as the Secretariat should be alert to any developments on the international or multilateral fora with regard to economic measures that could be of relevance to our work. And finally, the delegations and the Secretariat should carry out background work so that we can deal effectively with the four areas mentioned in the previous paragraph.

31. Several delegations made specific suggestions about the background work that can be carried out by the Secretariat and the studies to be prepared by it for the Special Commission. These suggestions include: (a) preparation of a study presenting concrete formulations of criteria for identifying developing land-based producer States likely to be most seriously affected by sea-bed production; (b) preparation of a preliminary study on possible approaches to the measurement of potential effects of sea-bed production based on hypothetical figures; (c) presentation of information on the current status of sea-bed mining and projection of the likely timing of the commencement of sea-bed production and of the amount of metals that may be produced; (d) projection of future demand for each of the four minerals concerned; (e) collection of statistics additional to those presented in WP.2/Add.1 on the amount of recycled metal, especially in the cases of copper and nickel; and (f) presentation of information additional to that contained in WP.2/Add.2, on CIPEC (Conseil Inter-gouvernemental des Pays Exportateurs de Cuivre - Inter-governmental Council of Copper Exporting Countries) and UNCTAD's negotiations on strengthening the capabilities of developing countries for processing and marketing of mineral commodities as well as on the establishment of a complementary financing facility. In view of the constraints of time and resources, I will appreciate it if the Preparatory Commission could determine, in consultation with the Secretariat, if some or all of these suggested tasks could be carried out.

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# STATEMENT TO THE PLENARY BY THE CHAIRMAN OF SPECIAL COMMISSION 1 ON THE PROGRESS OF WORK IN THAT COMMISSION

1. The mandate of Special Commission 1 is to undertake studies on the problems which would be encountered by developing land-based producer States likely to be most seriously affected by the production of minerals to be derived from the Area, with a view to minimizing their difficulties and helping them to make the necessary economic adjustment, including studies on the establishment of a compensation fund, and submitting recommendations to the Authority thereon.

2. In its first series of meetings during the second session of the Preparatory Commission the Special Commission succeeded in formulating and refining the outline of the studies to be undertaken in this context, within an integrated. logically structured framework. The second series of meetings of the Special Commission during the Geneva meeting focused on the identification of developing land-based producer States which are likely to be most seriously affected by sea-bed production, and also made a preliminary investigation of measures that may minimize the difficulties of such States and help them to make the necessary economic adjustment.

3. In our third series of meetings during the current session, consisting of ten meetings of the Special Commission and four meetings of the open-ended Bureau of the Special Commission, substantial progress has been made in the areas of: (a) identifying developing land-based producer States which are likely to be most seriously affected by sea-bed

production, (b) identifying possible effects of sea-bed production on developing land-based producer States; and (c) investigating possible remedial measures. One of the most significant achievements during the current session is a better understanding on the nature and content of the studies that can and should be carried out in the next few years before the Authority comes into being, and of the studies that can be more effectively pursued by the Authority and its appropriate organs in due course, in view of the relatively long period that may be required before sea-bed production occurs.

4. With regard to the latter, there was general agreement that: (a) a final identification of developing land-based producer States likely to be most seriously affected by sea-bed production, (b) forecasting of the mineral situation with and without sea-bed production; and (c) concrete formulation of measures to minimize the difficulties of developing land-based producer States and to help them make the necessary economic adjustment can be carried out by the Authority in due course. A thorough assessment of the effects of sea-bed production and the problems encountered by particular developing land-based producer States, on a country-by-country basis as well as a mineral-by-mineral basis, can be undertaken when sea-bed production occurs.

5. The Special Commission, however, can formulate criteria that may be used in identifying developing land-based producer States likely to be most seriously affected; it can study, in general terms, what the possible effects of sea-bed production would be and the possible problems that could be encountered by such States flowing from these effects; it can recommend to the Authority an outline of the in-depth investigation the Authority may carry out on specific countries and specific minerals with regard to the effects and the associated problems; and it can recommend certain guidelines for the concrete formulation of remedial measures.

6. With regard to the criteria that may be used in identifying developing land-based producer States likely to be most seriously affected by sea-bed production, it was generally agreed that the criteria will be based on the degree of dependence of particular developing land-based producer States on the contribution of one or more of the four mineral commodities concerned, e.g. copper, nickel, cobalt and managanese, to their export earnings or to their economies before sea-bed production of these mineral commodities occurs. There was a thorough debate as to the priority to be given, as a basis of identification, to either one of these two criteria, namely, export earnings or economies, of the particular developing land-based producer States concerned. It was generally agreed that both the criteria should be taken into account. Based on the background document LOS/PCN/SCN.1/WP.3, the Special Commission also had an in-depth discussion on the quantifiable yardsticks to reflect the contribution of the mineral commodities and the dependence of particular developing land-based producer States on the mineral commodities. In this context, the discussion centred on (a) the selection among a variety of yardsticks: (i) value of export earnings from one or more of the four mineral commodities concerned accrued to a particular developing land-based producer State prior to sea-bed production, (ii) value of export earnings from these mineral commodities

relative to other variables, e.g., total export earnings, (iii) value of production of one or more of the four mineral commodities concerned in a particular developing land-based producer State prior to sea-bed production, (iv) value of production of these mineral commodities relative to other variables, e.g., total gross domestic product, (v) a combination of the above, e.g., value of export earnings from these mineral commodities relative to the total gross domestic product; (b) the selection of time period over which the above values or ratios will be averaged and the method of averaging; (c) proper statistical measurement of the above values or ratios and; (d) formulas incorporating the above values or ratios as well as other relevant factors in order to characterize a particular developing land-based producer State likely to be most seriously affected. The Special Commission, however, stopped short of specifying any concrete formulation of criteria at this time. It was felt that further discussion should be held with regard to the quantifiable yardsticks reflecting the dependence of the economy of a particular developing land-based producer State on the mineral commodities concerned.

7. The issue of ex ante identification prior to sea-bed production of developing land-based producer States likely to be most seriously affected by sea-bed production was interrelated with the issue of ex post effects of sea-bed production on developing land-based producer States after sea-bed production occurs. In our future meetings, the discussion will continue, and I am confident that once the interrelationships are thoroughly investigated, a conceptual distinction can be made between the criteria for ex ante identification and the measurement of ex post effects which, in its turn, will facilitate the specification of concrete formulation of the criteria for ex ante identification. In this connection it should be borne in mind that the ex ante identification is for the purpose of studying the problems that may be encountered and of exploring possible solutions alone; the ex ante identification is not for the purpose of establishing eligibility for assistance from the Authority.

8. The deliberations on the possible effects of sea-bed production on developing land-based producer States focused on the adverse effects on export earnings or economies of such States, in conformity with the provisions of articles 150(h) and 151(10) of the Convention. The possibility was mentioned of an over-supply of the mineral commodities concerned as a result of sea-bed supply and a resultant reduction in price; the possibility was also mentioned of the import needs of consuming countries being fulfilled by sea-bed supply, with a resultant reduction in the volume of exports of developing land-based producers to these consuming countries. The reduction in price of a mineral or volume of exports may cause a reduction in export earnings or adverse effects on economies of developing land-based producer States. These adverse effects may lead to reduced factor income, reduced employment, reduced government revenues, and reduced investible funds. There may be balance of payments difficulties, retardation of economic development, social dislocation and political repercussions. The so-called side effects, e.g., reduced production of accessory minerals, and the multiplier effects reflecting the linkages of the mineral sectors concerned with other sectors were also mentioned. A need was felt, however, that the problems that may be encountered by developing land-based producer States

other than those associated with reduced export earnings should be thoroughly investigated. There was, also, very little discussion about the underlying real problems of diverting resources from the mineral sectors concerned to other sectors quickly and smoothly,and about why the adverse effects of sea-bed production would cause more problems to developing land-based producer States as compared to other land-based producers. In this context, it was proposed that a case study be made on the possible problems that are likely to be encountered by a developing land-based producer State as a result of sea-bed production. Another view was expressed that due to difficulties in defining the parameters involved in a case study, as well as in obtaining data, such a case study can only be made under clearly specified terms of reference.

9. There was an exchange of views regarding quantification of the possible effects of sea-bed production. It was felt that effects on export earnings are relatively easier to quantify, but this fact should not deter the Special Commission or the Authority from studying the effects on economies. There were discussions, based on background document LOS/PCN/SCN.1/WP.4, of whether it is necessary, for the measurement of effects on a particular land-based producer State, to investigate the aggregate world supply and demand situations with and without sea-bed production. It was felt that the study of the aggregate situation may be helpful in assessing price and volume of trade in the global context, but what is important is to study the supply-demand situation as pertaining to the individual land-based producer States. In this context, a proposal was made to establish working group of experts which would meet during the inter-sessional periods to study the supply-demand-price mechanism; however, many delegations thought that the time has not yet come to establish such a working group of experts. An important point was raised that a considerable part of the mineral trade may be carried out through specific trade agreements. A study of the terms and conditions of these trade agreements may be more fruitful than the study of the operation of the invisible forces of the mineral market.

10. The point was made that while it is possible to identify, before sea-bed production occurs, the developing land-based producer States likely to be most seriously affected and also to carry out general studies about the problems that may be encountered by developing land-based producer States in connection with the possible effects of sea-bed production, the measurement of actual effects should be done only after sea-bed production occurs, and any remedy or assistance administered by the Authority may have to be based on a thorough examination of the effects and the problems on a case-by-case basis - the conditions of a specific mineral industries in a specific countries should be carefully assessed. It was pointed out that in this context, the possibilities of sea-bed production outside the Convention regime need to be taken into account.

11. With respect to possible remedial measures, the deliberations were characterized by an extraordinary degree of co-operative spirit. Starting from a discussion of existing international or multilateral economic measures, a variety of helpful suggestions were put forward by a number of delegations. Two delegations submitted separate proposals on

this matter in documents LOS/PCN/SCN.1/1985/CRP.6 and 7, respectively: these were commented upon by delegations on a preliminary basis. It was felt that a complete inventory of existing measures will be helpful for the work of the Special Commission - the six examples presented in the background paper LOS/PCN/SCN.1/WP.2/Add.2 were discussed and a need was felt that these should be complemented by other examples, e.g., UNCTAD's efforts on the promotion of processing and marketing as well as on the complementary compensation financing UNIDO's efforts on restructing of non-ferrous industries, UNDP's activities with regard to economic development of developing countries, the measures of regional commissions and development banks with respect to the mineral industries in developing countires, etc.. It will be extremely helpful, as in the case of the EEC's SYSMIN, it could invite representatives of the respective organizations to elaborate and explain the operation of their measures. It was felt that while the existing measures can go a long way in mitigating the problems of developing land-based producer States, there is still a great need for additional measures, especially to help these States to make necessary economic adjustment. The Special Commission is also mandated to undertake studies on the establishment of a compensation fund.

12. With regard to additional measures, those mentioned in background document LOS/PCN/SCN.1/WP.1 were recalled. The general approach aiming at minimizing the dependence of a developing State on a single resource sector includes diversification of the economy, structural adjustment, economic infrastructure building etc.. The sectoral approach aiming at counter-balancing the difficulties focusing on the mineral sector itself includes commodity agreements or arrangments, supply-management schemes, reduction of costs of production, promotion of markets, promotion of trade, promotion of downstream activities, etc.. Several measures mentioned during the Geneva meeting were also elaborated upon. These include facilitating access to markets, removal of trade barriers, fostering the indigenous industrial base in the developing countries themselves. Another approach was also taken whereby developing land-based producers can help themselves at a national, regional or international level, with their own efforts in association with international agencies and the Authority. The role of technical assistance, including training of personnel of developing countries, was also emphasized.

13. For our future meetings, I envisage (a) the conclusion of our deliberations on the concrete formulation of the criteria for the identification of developing land-based producer States likely to be most seriously affected by sea-bed production; (b) preparation of an outline to study in-depth possible effects on developing land-based producer States and to investigate the associated problems; and (c) formulation of certain guidelines that need to be taken into account by the Authority in devising any remedial or assistance measure. As has been emphasized during our past two series of meetings, relevant data and information are absolutely essential for the work of our Special Commission. A substantial data and information base has been built up by the secretariat in response to our requests, and these data are disseminated in the background documents LOS/PCN/SCN.1/WP.2 and Adds. 1 and 2. The responses by States to the note verbale from the Secretary-General will

augment this data base. The responses will be disseminated by the secretariat in due time. It is also essential that the data base is updated on an ongoing basis. I would request delegations to continuously check and update the data which they have already submitted in response to the note verbale. The data base would be further enriched if data on recycling could be made available to the Special Commission. Projections of demand for copper, nickel, cobalt and manganese in the year 2000 and beyond, if available in the public domain should also be collected and disseminated. A complete listing of possible remedial and assistance measures including somewhat detailed discussions on each of them will also be extremely helpful. Finally, any information on specific trade agreements, especially of a bilateral nature, if available in the public domain, will facilitate our deliberation on the future of the mineral trade. The Special Commission, through the Preparatory Commission, requests the Secretariat to respond to the above needs, as far as possible within the given time and resource constraints.

14. Finally, Mr. Chairman, while Special Commission 1 will continue with the studies assigned to it, I would also like to invite delegations to begin to ponder what recommendations they wish the Special Commission to formulate to be submitted to the Authority in due course.

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Geneva, 12 August - 4 September 1985

## STATEMENT TO THE PLENARY BY THE CHAIRMAN OF SPECIAL COMMISSION 1 ON THE PROGRESS OF WORK IN THAT COMMISSION

1. Following the programme of work laid out at the conclusion of the Third Session of the Preparatory Commission in Kingston, and as recommended by the Bureau of the Special Commission in the beginning of the Geneva meeting, Special Commission 1 decided that during this meeting, it will concentrate on the following three interrelated issues:

(a) the conclusion of our deliberations on the concrete formulation of the criteria for the identification of developing land-based producer States likely to be most seriously affected by sea-bed production in the Area;

(b) preparation of an outline to study in-depth possible effects of sea-bed production in the Area on developing land-based producer States and to investigate the associated problems; and

(c) formulation of certain guidelines that need to be taken into account by the Authority in devising any remedial or assistance measure.

2. The Special Commission devoted its seven meetings and the two open-ended meetings of its Bureau primarily to these three issues. It also examined the working papers prepared by the Secretariat dealing with data, since relevant data and information are essential bases of the work of the Special Commission. The first paper, document LOS/PCN/SCN.1/WP.2/Add.3, presents data on past and present production, consumption and trade of copper, nickel, cobalt and manganese as well as data related to future production potential of these metals from land-based sources. These data were collated from the responses of States/entities to the note verbale transmitted to them by the Secretary-General. The second paper, document LOS/PCN/SCN.1/WP.2/Add.4, presents data on recycling of these metals, particularly of copper, along with an analysis of recycling activities.

3. On the first issue, namely, formulation of concrete criteria for the identification of developing land-based producer States likely to be most seriously affected by sea-bed production in the Area, extensive discussions took place in our past meetings. In the course of these discussions, general agreements seemed to be emerging on several aspects. With the objective of furthering the deliberations of the Special Commission and of facilitating the process of reaching agreed conclusions, I prepared a preliminary and provisional sum-up of the aspects on which general agreements seemed to be emerging. On the basis of the sum-up, I mentioned, by way of examples, certain concrete formulations of the criteria,on a provisional basis. The sum-up and the examples of the provisional suggestions are contained in document LOS/PCN/SCN.1/1985/CRP.8.

4. Delegations made a preliminary review of the sum-up and there was a general agreement that it can be a basis for further deliberations, and perhaps, for negotiations the results of which can form part of the Special Commission's recommendations to the Authority at a later stage.

5. A number of suggestions were made in the course of the preliminary review of the document CRP.8.

(a) First, it was pointed out that developing land-based producer States which would be likely to be seriously affected by sea-bed production in the Area would be in a better position to bring to the attention of the Authority this fact at a time close to when sea-bed production would actually occur. The Authority could apply the criteria to identify such States; however, the situation of each land-based producer State will have to be studied on a case-by-case basis. In studying each case, the Authority will have to assess the extent to which the export earnings or the economy of a particular developing land-based producer State depend on the relevant mineral prior to sea-bed production in the Area. This assessment may have to be carried out on the basis of level of dependence during the previous 5 years before production authorizations are issued to sea-bed miners, or on the basis of a long-term trend between, say, 1982, the year the Convention was adopted, and the year in which production authorizations are issued.

(b) Secondly, the level of dependence needs to be looked into from an over-all perspective, rather than in a fragmentary approach. In this context, the role and contribution of the mineral sectors concerned in the economies of developing land-based producer States need to be examined in its totality. The role and contribution of the mineral sectors concerned may vary from State to State, depending on a number of factors, e.g., population, per capita income, geographical location, area, etc.; these need to be taken into account on a case-by-case basis.

(c) Thirdly, the suggestions in CRP.8 include formulations and figures which are essentially examples of an arbitrary nature. The Special Commission needs to carry out further work to reduce this arbitrariness. The listing of minerals extractable from polymetallic nodules may have to be examined; exports or production from land-based sources may have to be examined in connexion with the land-based reserves of the minerals concerned. The figures themselves need to correspond more realistically to the actual data.

(d) Fourthly, it was pointed out that the three issues, namely, (i) the criteria for the identification of developing land-based producer States likely to be most seriously affected by sea-bed production in the Area, (ii) the in-depth study of possible effects of sea-bed production in the Area on such States and the investigation of the associated problems, and (iii) the formulation of guidelines in devising any remedial or assistance measures, are interrelated. For the sake of proceeding with our work in a step-by-step fashion, we may come to some tentative agreements on each of these issues separately. However, at a final stage, these separate tentative agreements need to be examined as parts of the whole, in the sense of a "package", or in a "global" perspective, so to speak.

(e) Finally, by applying the criteria, a preliminary identification can be done at present or in the near future; but this preliminary identification will be of an illustrative nature alone, solely for the purpose of facilitating the study of the problems which would be encountered by developing land-based producer States likely to be most seriously affected by sea-bed production in the Area.

6. As in the case of the first issue, on the second issue, namely, preparation of an outline to study in-depth possible effects of sea-bed production in the Area on developing land-based producer States and to investigate the associated problems, I also prepared a preliminary and provisional sum-up of aspects on which general agreements seemed to be emerging. I also suggested, on a preliminary and provisional basis, an outline of the in-depth study to be carried out on a case-by-case basis by the Authority in due time. The sum-up and the provisional suggestions are contained in document LOS/PCN/SCN.1/1985/CRP.9.

7. Delegations, after a preliminary study of CRP.9, feel that, although much work needs to be carried out on the outline, the suggestions in CRP.9 can form a basis of further work. There are two major areas which require thorough investigation.

(a) After sea-bed production occurs, the observed price of a mineral and volume of exports of that mineral from developing land-based producer States may incorporate effects of other factors than sea-bed production itself. These factors may be external, or internal to the developing land-based producer States. The effects of these factors need to be taken into account in order to isolate the effects of sea-bed production per se. This is a technically complex area, but, hopefully, the political good-will in Special Commission 1 can facilitate the formulation of an agreed methodology.

(b) The problems of developing land-based producer States would arise, to a great extent, from the limitations of capabilities of such States in countering and controlling the effects of sea-bed production on their export earnings or economies. These limitations need to be assessed thoroughly, and any long-term remedy has to address the issue of alleviating these limitations.

8. On the third issue mentioned above, namely, formulation of certain guidelines that need to be taken into account by the Authority in devising remedial or assistance measure, the Special Commission carried out its work along several lines.

(a) First, with the understanding that a number of existing economic measures, programmes or activities of international and multilateral organizations can be of relevance to the work of the Special Commission on this issue, it had requested the Secretariat to invite representatives of relevant organizations to the Geneva meeting so that it will have an opportunity to benefit from a direct interaction with these representatives in obtaining first-hand information and explanation on the respective measures, programmes or activities. The representatives of GATT, EEC, IMF, IDB (Inter-American Development Bank) and UNCTAD made presentations in the meetings of Special Commission 1 and also answered questions of an explanatory nature. The interaction has been extremely fruitful. On behalf of the Special Commission, I would like to extend our appreciation to the respective organizations for their co-operation which facilitated the work of the Special Commission immensely. The Special Commission looks forward to continued co-operation with these organizations as well as to having the opportunity to interact with the representatives of other relevant organizations.

(b) Two delegations, Pakistan and Zimbabwe, had made separate specific proposal on remedial measures. These proposals are contained in documents LOS/PCN/SCN.1/1985/CRP.6 and CRP.7, respectively. The Special Commission continued its study of these proposals. Delegations felt that these are good bases of further deliberations.

(c) At the request of the Special Commission, the Secretariat has contacted a number of international and multilateral organizations for information on the measures, programmes or activities being implemented or developed under their aegis. Responses were received from most of the organizations. The Secretariat has compiled the information in a working paper, LOS/PCN/SCN.1/WP.5. The organizations contacted fall under the following categories: (i) United Nations Secretariat units, (ii) United Nations organizations, (iii) Regional Commissions, (iv) Specialized Agencies, (v) Regional Development Banks, and (vi) other intergovernmental organizations. The measures, programmes or activities range from project development aimed at sustaining and strengthening the development process of the economy of developing countries to compensatory financing for export short-falls. This working paper is a commendable compendium. An in-depth study of the working paper will greatly facilitate the work of the Special Commission on the issue at hand.

9. I feel that the work of the Special Commission has progressed to a stage where we have at our disposal a sufficient information and data base for our purpose. We have discussed the major issues in-depth, and we have come to conclusions on some of the major issues, on a provisional basis. The next stage of our work will involve:

(a) improving and refining the provisional conclusions, and arriving at agreed conclusions; in particular, the bases provided by CRP.8 and CRP.9 should be built upon;

(b) studying in-depth the existing measures, programmes and activities of international and multilateral organizations in order to assess their suitability for our purpose as well as to learn from their experience with a view to formulating certain guidelines that need to be taken into account by the Authority in devising remedial or assistance measure;

(c) studying the various papers prepared by the Secretariat and the proposals submitted by delegations; and

(d) carrying out preparatory work so that we are in a position to submit recommendations to the Authority in due time at the conclusion of the work of the Preparatory Commission.

10. I would like to bring to the attention of the Preparatory Commission the fact that some delegations felt that two studies may facilitate our work in the future:

(a) A study could be carried out on the influence that various factors, e.g., population, per capita income, geographical location, area, etc., may have on the level of dependence of particular developing land-based producer States on one or more of the four minerals concerned.

(b) A study could be undertaken to examine the role of the mineral sectors concerned in the economies of particular developing land-based producer States and the contribution of these mineral sectors to their economies, taking into account the contributions of direct and indirect nature.

It is essential that the study should identify, in particular, the possible areas where multiplier effects will be felt, of a decline in export or production of one or more of the four minerals concerned, on developing land-based producer States.

The Secretariat is requested to initiate these studies, subject to the manpower and financial constraints of the Secretariat. The Secretariat is also requested to maintain, update and develop the information and data base in a rational framework. In particular, the Secretariat should continue to collect data on recycling, especially of nickel, cobalt and manganese.

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## STATEMENT TO THE PLENARY BY THE CHAIRMAN OF SPECIAL COMMISSION 1 ON THE PROGRESS OF WORK IN THAT COMMISSION

1. Following the programme of work recommended by the open-ended Bureau of the Special Commission and adopted at its first meeting of this session by the Special Commission itself, Special Commission 1 concentrated its work on the remedial measures for the problems that may be encountered by developing land-based producer States (DLBPS) as a result of future sea-bed production.

2. On this matter, the Special Commission has already carried out some background work, and had before it several documents. In previous sessions, in connection with the deliberations on related matters, the Special Commission had general discussions on the remedial measures. Based on the understanding that existing economic measures of international and multilateral organizations can be of relevance to its work, the Special Commission invited representatives of these organizations to make presentations describing their respective measures. Representatives from several organizations made such presentations during the 1985 Geneva Meeting of the Preparatory Commission; these presentations were studied carefully. At the request of the Special Commission, the Secretariat prepared a compilation of existing and proposed assistance measures, programmes and activities of twenty international and multilateral organizations. This compilation in the form of a working paper, document LOS/PCN/SCN.1/WP.5, was before us in this session. In addition, two delegations, Pakistan and Zimbabwe, had made specific proposals regarding remedial measures in previous sessions; these proposals are contained in documents LOS/PCN/SCN.1/1985/CRP.6 and CRP.7 respectively.

3. In view of the great importance of the matter in the work of Special Commission 1, most of the meetings during this session focused on WP.5. This document contains a comprehensive, though not necessarily exhaustive, compilation which is rich in information on assistance measures, programmes or activities of various organizations. These include:

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A. United Nations Secretariat Units

(i) Department of International Economic and Social Affairs (DIESA) programme on marine minerals;

(ii) Centre on Transnational Corporations (CTC) programme on the transnational corporations in the mineral sector.

B. United Nations Organizations

(i) United Nations Development Programme (UNDP) assistance to broaden the industrial, agricultural and human resources bases in developing countries, and its assistance in the exploration of marine minerals in the Exclusive Economic Zone of Member States;

(ii) UNDP Revolving Fund for Mineral Exploration;

(iii) United Nations Conference on Trade and Development (UNCTAD) Integrated Programme for Commodities (IPC), programme on commodity agreements or arrangements within the framework of the IPC, the first and the second accounts of the Common Fund for Commodities, proposed measures on complementary compensatory facilities for commodities, and its activities in relation to the processing, marketing and distribution, including transportation, of commodities of export interest to developing countries;

(iv) United Nations Industrial Development Organization (UNIDO) programme on the restructuring of non-ferrous metals industries;

(v) United Nations Environment Programme (UNEP) assistance for environmental management of mineral industries.

C. Regional Commissions

(i) Economic Commission for Africa (ECA) proposed programme on problems of DLBPS, and its proposed mining fund;

(ii) Economic and Social Commission for Asia and the Pacific (ESCAP) mineral programme.

D. Specialized Agencies

(i) World Bank's assistance for economic development in developing countries, especially its structural adjustment loans;

(ii) International Monetary Fund (IMF) assistance to developing countries on balance-of-payments problems, especially compensatory financing facility and buffer stock financing facility;

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(iii) Intergovernmental Oceanographic Commission (IOC) of United Nations Educational, Scientific and Cultural Organization (UNESCO) programme on ocean science in relation to non-living resources;

(iv) International Labour Organisation (ILO) activities in relation to safety and health, vocational training and industrial relations in the mining sector.

E. Regional Development Banks

(i) Inter-American Development Bank (IDB) assistance to developing countries in the region, especially for the mining sector.

F. Multilateral Organizations

(i) European Economic Community (EEC) assistance to African, Caribbean and Pacific (ACP) States, especially its system for minerals;

(ii) General Agreement on Tariffs and Trade (GATT) multilateral trade negotiations, and

(iii) Intergovernmental Council of Copper-Exporting Countries (CIPEC) producers' association on copper.

4. There are a variety of measures, programmes or activities being implemented or developed. In terms of categories, they range from scientific research oriented to mineral development to commercial mineral project development; from economic assistance of a general nature to sustain or strengthen the development process of the economies of developing countries to providing compensation for export shortfalls. In terms of forms, they range from provision of information and analysis to financial assistance. In terms of time horizon, they range from measures essentially aimed at very short-term cures to those aimed at promoting a well-balanced, diversified economy capable of withstanding external shocks to a great extent.

5. Our work involved making an assessment of whether and in what manner these measures, programmes or activities are relevant or suitable for our purpose. The general discussion led to the conclusion that almost all of these measures, programmes or activities could be of relevance to our work in various degrees. In order to facilitate the discussion in specific terms, with the assistance of the Bureau, I prepared a summary of the vast amount of information contained in WP.5. The summary presented an inventory of all the measures, programmes or activities, focusing on the points in each one that could make it relevant for our purpose. This summary is contained in document LOS/PCN/SCN.1/1986/CRP.10.

6. This document was examined thoroughly by the Special Commission. After a section-by-section examination, there was a general agreement that the listing presented in CRP.10 is an accurate one, reflecting the relevance of each measure, programme or activity for the purpose of the Special Commission. CRP.10 was generally acceptable as a listing of all measures, programmes or activities being implemented or developed by international or multilateral organizations, which could be made use of in remedying the problems that may be encountered by DLBPS as a result of future sea-bed production.

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7. It is noteworthy that a number of delegations felt that the Preparatory Commission as an intergovernmental body could make efforts, taking appropriate decisions, to contact the policy-making organs of the international and multilateral organizations concerned so that their existing measures, programmes and activities take into account the possible problems of DLBPS likely to suffer adverse effects as a result of sea-bed production. This is intended to enhance the degree of applicability of these measures, programmes and activities to the problems the Special Commission is addressing. Other delegations pointed out the difficulties that may be encountered in this endeavour in view of how the policy-making organ of each organization works and what its mandate is. Some delegations suggested that DLBPS themselves, or members of the Preparatory Commission, could make efforts to the same effect in the respective forums of the intergovernmental or multilateral organizations, as applicable. Some delegations, while accepting CRP.10 in its present context, mentioned that there should not be any prejudgement of their countries' positions in the respective forums.

8. In any case, there was a general agreement that the measures, programmes or activities, in their current form as listed in CRP.10, could be useful to a certain degree in minimizing the difficulties of DLBPS likely to suffer adverse effects as a result of sea-bed production. It should be pointed out that CRP.10, since it is based on WP.5, is not comprehensive. Some delegations mentioned the work of the United Nations Conference on Nickel in establishing the International Nickel Study Group (INSG). The Secretariat prepared a working paper, document LOS/PCN/SCN.1/WP.5/Add.1, presenting a brief report on the work of the United Nations Conference on Nickel and on the developments regarding the establishment of the INSG. In connection with the preparation of WP.5, the Secretariat contacted twenty-five organizations, responses from six of which were not received at the time WP.5 was prepared. The Secretariat reported that one of the six organizations, Economic Commission for Latin America and the Caribbean (ECLAC) has responded after that date. It is urged that the Secretariat makes all possible efforts to draw responses from the other organizations and disseminate the responses in the form of further addenda to WP.5. It is also urged that the Secretariat contacts other organizations, e.g., the organization responsible for the United Nations Programme for the Decade of Industrial Development in Africa, regional intergovernmental organizations, non-governmental organizations, in order to add to the information contained in WP.5. Information on the work of the organizations dealing with related matters, e.g., International Bauxite Association, would be useful also.

9. It should be added that CRP.10 does not indicate any preference or priority for any given measure, programme or activity. A number of delegations indicated their preferences for certain measures, programmes or activities. For example, some delegations preferred measures aimed at long-term solutions, general economic development, structural adjustment, or establishment and effective operation of commodity agreements or arrangements. CRP.10 does not assess the degree of relevance or effectiveness of the measures, programmes or activities for remedying the problems of DLBPS. Various delegations mentioned specific measures, programmes or activities in terms of degree of relevance or effectiveness. In this connection, mention was made, by one delegation or another, of United Nations DIESA programme

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on marine minerals, UNDP programme on the expansion of industrial, agricultural and human resources bases, and its Revolving Fund for Mineral Exploration, UNCTAD Integrated Programme for Commodities, commodity agreements or arrangements with constructive lessons learnt from the recent developments regarding the International Tin Agreement, the first and the second accounts of the Common Fund, complementary compensatory facilities as well as UNCTAD activities regarding marketing, processing and distribution, including transportation, of commodities, UNIDO programme on restructuring the non-ferrous mineral industries, measures of Regional Commissions, especially ECA proposed programme on problems of DLBPS and its proposed mining fund, World Bank structural adjustment loans, IMF compensatory financing facilities, UNESCO/IOC programme on ocean science in relation to non-living resources, GATT multilateral trade negotiations, etc.

10. Another limitation of CRP.10 is that it does not assess the degree of facility, or conversely, the degree of difficulty involved for DLBPS in utilizing the existing measures, programmes or activities. In this connection some delegations pointed out the conditionalities associated with certain measures, e.g., measures of World Bank and IMF, or limitations encountered by developing countries with respect to certain measures, e.g., the expansion of UNCTAD IPC and the operation of UNCTAD Common Fund.

11. In the above contexts, some delegations felt the need to assess the potentials for and the problems of DLBPS to make use of the existing measures, programmes or activities, as well as the effectiveness of these measures, programmes or activities in terms of fulfilling the needs of DLBPS. These delegations were urged to assess their experience with these measures; some delegations responded. The Special Commission can benefit from further assessments from other DLBPS and other delegations. It was also suggested that the possibilities should be explored whether the Secretariat or the organizations concerned could provide appropriate analytical assessments.

12. It was generally agreed that CRP.10, further enriched by information on additional existing measures, programmes or activities, and taking into account the analytical assessments, can form a good basis for further deliberations for the Special Commission's recommendations to the Authority with regard to guidelines for remedial measures. In article 151, paragraph 10, of the Convention, the Authority is mandated to take necessary measures in co-operation with specialized agencies and other international organizations. CRP.10 can be helpful in formulating guidelines for appropriate co-operative arrangements. Some delegations felt that although the existing measures can go a long way in remedying the problems of DLBPS as a result of future sea-bed production, at the same time there is still need for the Authority's own measures. Some delegations emphasized the measures already included in the Convention, e.g., the production ceiling provisions contained in article 151, paragraphs 4-7, the provisions with regard to safeguard against unfair market practices and regarding conditions of access to markets, and implicity, regarding market transparency, in article 151, paragraph 10, and article 150, paragraph (j), respectively. A view was expressed that when sea-bed mining becomes a reality, the international and multilateral organizations themselve

might adapt their measures, programmes and activities to take into account the problems of DLBPS, thus reducing the need for the Authority to adopt its own measures. The issue was raised whether it would be premature for the Special Commission or the Authority to suggest any remedial measures in view of the uncertainties regarding the economic viability of sea-bed mining. It was generally felt, however, that the Special Commission had to carry out its mandate, taking this uncertainty into consideration.

13. Going beyond existing measures, programmes or activities, a proposal with regard to remedial measures was introduced by the USSR on behalf of the group of Eastern European socialist countries. The main thrust of the proposal contained in document LOS/PCN/SCN.1/WP.8 is to approach international trade in the mineral commodities to be produced from the resources of the international sea-bed Area on a bilateral basis. Measures to reduce adverse effects on those DLBPS whose export earnings are seriously affected as a result of a reduction in the volume of exports of a certain mineral, to the extent that such reduction is caused by activities in the Area, in each case shall be implemented through bilateral agreements between a developing traditional exporter of the affected mineral and a State producing a similar mineral from the resources of the Area, which traditionally used to import that mineral from the country in question, conducted in accordance with general principles to be established by the Authority and on the basis of a model agreement to be approved by the Council. According to the USSR, this type of assistance measure serves the purpose most effectively; it is the preferred measure in comparison with a so-called universal compensation mechanism. According to the USSR, this type of measure is also desirable on practical grounds - the methodology of determining the cause-and-effect relationship between sea-bed production and adverse effect on export earnings of DLBPS is much simpler, and the quantification of the adverse effects is also much easier.

14. The proposals by Pakistan, Zimbabwe and the group of Eastern European socialist countries were deliberated upon. It was pointed out that different elements of these proposals, in one way or another, were similar to elements in the existing measures, although these proposals are specifically focused on the problems of DLBPS. There were also similarities with regard to some elements among the three proposals themselves. It appears that a matrix composed of similar elements is emerging, which could be relevant for the recommendations of the Special Commission to the Authority with regard to remedial measures for the possible problems of DLBPS. Other delegations are urged to make proposals. One specific area which requires attention is studies on the establishment of a compensation fund. I suggest a two-pronged approach - the Secretariat can prepare a working paper examining the provisions of the Convention dealing with compensation fund; delegations, especially DLBPS, can make appropriate studies and proposals. Equipped with the necessary studies and proposals, the Special Commission will be in a position to fit in all the elements in the matrix. This, then, if agreed upon, can constitute our recommendation to the Authority in due time.

15. Special Commission 1 held nine meetings during this session. There were also three meetings of the open-ended Bureau of the Special Commission. During the last part of the session, two working papers prepared by the Secretariat, in response to the request made by the Special Commission at the conclusion of the 1985 Geneva Meeting were introduced. These documents, LOS/PCN/SCN.1/WP.6 and WP.7, respectively,

deal with factors that may be of relevance in examining the dependence of particular DLBPS on the copper, nickel, cobalt and manganese sectors, and with the identification of possible effects of a decline in export or production of copper, nickel, cobalt and manganese on DLBPS. There was a preliminary discussion on these working papers. Some delegations noted the linkages between these working papers and two conference room papers circulated by me during the 1985 Geneva Meeting, documents LOS/PCN/SCN.1/1985/CRP.8 and CRP.9.

16. There was also some discussion on these two conference room papers. CRP.8 provisionally summarizes the discussion on the issue of the concrete formulation of the criteria for the identification of DLBPS likely to be most seriously affected by sea-bed production, and includes certain suggestions on this issue. CRP.9 provisionally summarizes the discussion on the issue of the preparation of an outline to study in-depth possible effects of sea-bed production in the Area on DLBPS and to investigate the associated problems, and includes certain suggestions on this issue. There is a need for further deliberations on these two conference room papers along with WP.6 and WP.7.

17. As can be seen from the above, a considerable amount of work was carried out by the Special Commission during this session. It appears to me that we have laid the foundation for and constructed the framework for the achievement of our eventual goal, submitting recommendations to the Authority. Our task is now to build on this foundation and framework. This building process can be furthered during the next session if we concentrate on:

(a) fitting in all the elements, including studies on the establishment of a compensation fund, with regard to remedial measures;

(b) finalizing our provisional conclusions with regard to the two issues dealt with in CRP.8 and CRP.9 respectively; and

(c) initiating the drafting of recommendations to be submitted to the Authority.

18. During the inter-sessional period, I would like to urge the delegations:

(a) to examine all the documents before us, especially CRP.10, CRP.6, CRP.7 and WP.8; CRP.8 and CRP.9;

(b) to make analytical assessments of the existing economic measures of international and multilateral organizations in terms of the degree of facility with which DLBPS can utilize them and of the degree of their effectiveness in fulfilling the needs of DLBPS; and

(c) to initiate studies on the establishment of a compensation fund with a view to formulating proposals in this regard.

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19. Special Commission 1 would like to request the Secretariat, through the Preparatory Commission:

(a) to collect and disseminate information on existing economic measures being implemented or developed by international, regional or multilateral organizations mentioned in paragraph 8 above; and

(b) to prepare a working paper examining the provisions of the Convention dealing with compensation fund.

It would be appreciated if the Secretariat could respond to these requests subject to the financial constraints of the organization.

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PREPARATORY COMMISSION FOR THE INTERNATIONAL
SEA-BED AUTHORITY AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
New York, 11 August-5 September 1986

# STATEMENT TO THE PLENARY BY THE CHAIRMAN OF SPECIAL COMMISSION ON THE PROGRESS OF WORK IN THAT COMMISSION

1. At the outset of the present session, the Bureau of Special Commission 1, in an open-ended meeting, recommended that the programme of work of the Special Commission during the session should concentrate on four items: (a) continuation of the discussion of the working papers (LOS/PCN/SCN.1/WP.5-8) and the conference room papers (LOS/PCN/SCN.1/1985/CRP.6-10), which were already before the Special Commission; (b) study on the establishment of a compensation fund; (c) methods to determine that a reduction in the price of an affected mineral or in the volume of exports of that mineral from developing land-based producer States (DLBPS) would have been caused by sea-bed production; and (d) drawing up recommendations to the Authority. The Special Commission concurred with the programme of work and devoted its nine meetings to the consideration of the four items.

2. I am pleased to report that the Special Commission made considerable progress with regard to the first item, and had an extremely fruitful exchange of ideas on the second item. Shortness of time prevented the Special Commission from considering the third and the fourth items in any detail.

## Consideration of working papers and conference room papers

3. The Special Commission focused on those working papers and conference room papers that contained either preliminary suggestions by the Chairman or proposals by delegations. With regard to the issue of the concrete formulation of the criteria for the identification of DLBPS likely to be most seriously affected by sea-bed production, the suggestions of the Chairman contained in LOS/PCN/SCN.1/1985/CRP.8 are broadly acceptable to the Special Commission, although further work may be required to finalize the figures mentioned in paragraph 6 of the document, in connection with quantifiable yardsticks, and some degree of flexibility may need to be introduced in paragraph 6 (f).

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4. With regard to the issue of the preparation of an outline to study in-depth possible effects of sea-bed production in the Area on DLBPS and to investigate the associated problems, the suggestions of the Chairman contained in LOS/PCN/SCN.1/1985/CRP.9 are broadly acceptable to the Special Commission.

5. The three other documents that were considered extensively, LOS/PCN/SCN.1/1985/CRP.6 and 7 and LOS/PCN/SCN.1/WP.8, contain proposals by delegations regarding remedial measures for DLBPS that may suffer adversely due to sea-bed production. These proposals were made by the delegations of Zimbabwe, Pakistan, and Eastern European socialist countries, respectively.

6. The proposal by Zimbabwe calls for a compensation fund, the provision of technical assistance necessary to sustain the mining sectors of DLBPS, the wider diversification of the economies of DLBPS, including efforts in agriculture and certain secondary industries to strengthen manufacturing, and the creation of pools of regional projects in order to make use of the relevant raw materials of DLBPS.

7. The six-point proposal by Pakistan calls for the establishment of a special fund by international community/United Nations organizations/donor agencies, the establishment of metal producers' and exporters' associations, the establishment of a special fund by DLBPS themselves, setting up of related industries at the national/regional level, the institution of measures to diversify the economies of DLBPS and the institution of research and development efforts by DLBPS.

8. The proposals by the group of Eastern European socialist countries call for measures to reduce adverse effects in each specific case to be implemented through bilateral agreements between a developing traditional exporter of the affected mineral and a State producing a similar mineral from the resources of the Area, which had traditionally imported that mineral from the country in question, concluded in accordance with general principles to be established by the Authority and on the basis of a model agreement to be approved by the Council.

9. All three proposals were discussed extensively. The delegations that put forward the proposals had an opportunity to elaborate on their proposals and make further explanations and clarifications available. There was a fruitful exchange of ideas and views among delegations. In my assessment, the Special Commission appears ready to carry out further deliberations so that elements in each proposal enjoying general agreement can be pinpointed in the future.

10. In this context, it was pointed out that there were commonalities among various elements of the three proposals. There were also commonalities between elements in the three proposals and those in the relevant existing economic measures of international and multilateral organizations (see the Chairman's summary of these measures contained in LOS/PCN/SCN.1/1986/CRP.10). Our study of the most appropriate remedial measures may be facilitated by examining these elements of commonality. We can then proceed to find common grounds with regard to remedial measures.

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## System of compensation and compensation fund

11. At the conclusion of the fourth session of the Preparatory Commission, I had urged delegations that, following the mandate of the Special Commission, studies needed to be carried out on the establishment of a compensation fund for DLBPS. During the present session, starting with a discussion of a working paper prepared by the Secretariat that compiled the relevant provisions in the Convention in a systematic manner (LOS/PCN/SCN.1/WP.9), delegations responded with an intensive exchange of information, ideas and views.

12. Some delegations were of the view that it was mandatory for the Authority that a system of compensation and a compensation fund should be established. Some delegations expressed the opposite view. Some delegations were of the view that, mandatory or not, the option of a system of compensation and a compensation fund was a specifically mentioned option, and also a priority option to be given preference or importance. Still others expressed the view that, mandatory or not, the option of a system of compensation and a compensation fund should not be excluded from consideration. On the other hand, some delegations were of the view that such a system and such a fund were not needed. There was general agreement, however, that the Special Commission was mandated to undertake studies on the establishment of a compensation fund, whatever the outcome of the studies might be.

13. Some delegations drew a distinction between a system of compensation and a compensation fund while other delegations felt that a system of compensation had necessarily to be associated with a compensation fund.

14. Some delegations were opposed to the establishment of a "general" or "universal" compensation fund. Other delegations wished to study the possible pragmatic sources of funds for a compensation fund before determining the nature of the compensation fund.

15. As is evident from the above, there were opposing views on several aspects of the issue. However, the initiation of an in-depth examination of the issue and the constructive nature of the initial round of exchange of views lead me to believe that further deliberations would achieve promising results.

## New documents submitted by delegations

16. The European Economic Community (EEC) and its member States introduced a conference room paper (LOS/PCN/SCN.1/1986/CRP.11) setting out their position on the issues under consideration in the Special Commission. In their opinion, it was now widely accepted that deep sea-bed mining was not likely to take place in the immediate future, given that the now prevailing low level of prices of the metals to be extracted did not render such activity economically viable. As a consequence, it was difficult, in their view, to predict when, and under what circumstances, the first commercial exploitation of the deep sea-bed would take place. This uncertainty, in their view, made it very difficult, if not impossible, to arrive at any specific conclusions at the current stage that could be of value to the Authority at a time when deep sea-bed mining was actually taking place. For

the same reasons, they maintained it would be premature to recommend specific remedial measures at the current stage. EEC and its member States were also of the view that the application of existing instruments to assist efforts of economic adjustment in developing countries which were land-based producers could well prove adequate and more justifiable than the creation of new instruments.

17. There was a preliminary discussion of the document. Some delegations supported the views expressed therein by stating that it was unlikely that sea-bed mining would take place in the near future on an unsubsidized, commercial basis and the very conditions that would render unsubsidized, commercial sea-bed mining viable would in fact benefit land-based mining more. However, based on the findings of a report by the National Oceanic and Atmospheric Administration (NOAA) of the Government of the United States of America that commercial sea-bed mining could be competitive with land-based mining beyond the current decade and the sense of urgency expressed by NOAA to prepare draft regulations that would enable it to issue licences for commercial deep-sea mining after 1 January 1988, some delegations expressed the view that sea-bed mining might not be distant. Those delegations also added that strategic and security of supply considerations would make subsidization very likely. Other delegations felt that, in addition to existing remedial measures, there was a need for measures to be taken by the Authority

18. During the last week of the present session, the Group of 77 introduced a conference room paper (LOS/PCN/SCN.1/1986/CRP.12) containing a proposal for the establishment of the compensation fund. In their opinion, the creation of a compensation fund was one valid and specified option or strategy envisaged by the Convention that the Authority could adopt in order to provide itself with a reliable system of compensation that would make available the necessary financial resources to meet the costs of the economic relief measure or measures. The proposal specifies sources of finance for the compensation fund: a percentage of the revenue from the profits of the Enterprise to be allocated to the resources of the compensation fund on a regular basis; a percentage of revenue from the profits of other operators in the Area; and voluntary contributions made by members or other entities. According to the proposal, use of the funds would be directed to projects and/or programmes in affected DLBPS with the potential to bring about economic adjustment and capability to counter adverse effects of sea-bed production.

19. Due to the shortness of time available at the Special Commission's disposal, no detailed discussion of the proposal could take place.

### Presentation by the representative of the Permanent Commission for the South Pacific

20. Following the practice in the Special Commission, representatives of international, multilateral or non-governmental organizations are invited to make presentations on economic measures implemented or being developed under their auspices, which could be of relevance to our work. During the present session, the representative of the Permanent Commission for the South Pacific (PCSP) made a presentation on the programmes and activities of the Commission with regard to the

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conservation and exploitation of non-living marine resources in its member States. The Special Commission found the presentation useful for its purpose, and expressed its appreciation to PCSP.

## Further work of the Special Commission

21. Since its inception, the Special Commission has accomplished a great amount of work. Within the framework of a systematic work programme, it has studied a number of issues in a free-flowing manner. It is my opinion that the time has come to take stock of our work and examine how far we have proceeded on each item of our work programme, as laid out in LOS/PCN/SCN.1/1984/CRP.2 and 3.

22. Apart from this stock-taking task, the Special Commission needs to reach conclusions on the basis of further rounds of discussion and exchanges of views. The Special Commission should also attempt to conclude its work on the studies on the establishment of a compensation fund and to systematize its findings with regard to remedial measures.

23. To facilitate its work during the next session the Special Commission would request the Secretariat to prepare the following documents:

(a) A compilation of information on existing measures of economic assistance of international, multilateral and non-governmental organizations, as a supplement to the information contained in LOS/PCN/SCN.1/WP.5 and Add.1;

(b) A legislative history of the provisions of the Convention dealing with a system of compensation and/or a compensation fund;

(c) A working paper on how to determine the extent to which a reduction in the price of an affected mineral or in the volume of exports of that mineral from DLBPS would have been caused by sea-bed production.

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Fifth session
Kingston, Jamaica
30 March-16 April 1987

## STATEMENT TO THE PLENARY BY THE CHAIRMAN OF SPECIAL COMMISSION I ON THE PROGRESS OF WORK IN THAT COMMISSION

1. Pursuant to a recommendation by the open-ended Bureau of Special Commission I endorsed by the Special Commission itself, at this session the Special Commission continued its programme of work consisting of four items, formulated during the last meeting of the Preparatory Commission held in New York (LOS/PCN/L.37, para. 1).

### System of compensation and/or compensation fund

2. It was felt that the discussions on the first item in that programme, i.e., consideration of the working papers (LOS/PCN/SCN.1/WP.5-7) and the conference room papers (LOS/PCN/SCN.1/CRP.6-10), had been fairly exhaustive in the New York meeting, although a few "loose ends" need to be taken care of, such as those mentioned in paragraph 6 of CRP.8. In this session, therefore emphasis was placed on the second item in the work programme, i.e., study on the establishment of a compensation fund. On this item, the Special Commission had before it two working papers prepared by the Secretariat (LOS/PCN/SCN.1/WP.9 and WP.10), the latter having been presented at this session, and three proposals or statements (LOS/PCN/SCN.1/WP.8, and CRP.11 and CRP.12), submitted by the Group of Eastern European socialist countries, European Economic Community and its member States, and the Group of 77, respectively. In continuation of the discussion during the New York meeting, an extremely fruitful exchange of views and ideas took place during this session. On the face of it, the views and ideas appeared to be divergent, but one could also detect a considerable extent of underlying common grounds.

3. Regarding the issue of the Authority formulating and implementing a system of compensation or measures of economic adjustment assistance, some delegations felt that the existing economic measures of international, multilateral, regional and subregional organizations may be adequate in minimising the problems of developing land-based producer States (DLBPS) which may suffer serious adverse effects on their export earnings or economies consequent to sea-bed production, and unless there is a proven need, the Authority should not adopt any new remedial measure. Other delegations were of the view that it is necessary that the Authority adopts its own measures.

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4. As to whether the Authority should adopt a system of compensation or measures of economic adjustment assistance, according to some delegations a system of compensation is not effective in solving the problems of DLBPS; measures of economic adjustment assistance can address the problems far more effectively. Other delegations were of the view that a system of compensation and/or a compensation fund is not only effective, it is essential for tackling the problem of DLBPS.

5. Focusing on compensation, some delegations held the view that the establishment of a compensation system necessarily means the establishment of a compensation fund. Some others were of the view that there can be ways of compensating DLBPS without creating a compensation fund.

6. As to the issue whether a system of compensation and/or a compensation fund should be a universal, multilateral or bilateral one, some delegations were of the view that it has to be a universal or multilateral one. Others held the view that a bilateral mechanism operative, under the auspices of the Authority, between a developing traditional exporter of an affected mineral and a State producing a similar mineral from the resources of the Area, which had traditionally imported that mineral from the former, is the most preferable one.

7. Regarding the establishment of a compensation fund, a view was held by some delegations that the issue of a compensation fund is not just a juridical one, it is essentially an economic issue. From the economic point of view a compensation fund is not viable, especially in view of the current world economic realities and the long-term nature of the problems of the world mineral industry. Others maintained that there can be ways of making a compensation fund viable.

8. If a compensation fund is to be established, one of the crucial issues is the sources of finances for that fund. A number of ideas were offered by delegations. The Group of 77 proposal in CRP.12 envisages a percentage of profits of the Enterprise, plus a percentage of profits of other operators in the Area, plus voluntary contributions to be the sources of finances. Some delegations felt that contributions by operators may impose an additional burden on them considering the high costs of sea-bed mining. Besides, some land-based producing countries which are not developing countries may already be adversely affected by sea-bed mining; in addition to their losses in land-based mining, their contributions to the compensation fund will be extremely burdensome. Those delegations preferred contributions by the Enterprise alone, or voluntary contributions alone, or a combination of the two. Others pointed out that the contributions by the operators would be from the profits, and thus, would not add to costs and would not be burdensome. Furthermore, when operators earn "super-profits", contributions coming from the super-profits are not burdensome at all. In addition, the experience of existing funds the sole sources of finances for which are voluntary contributions has not been encouraging. In this context, some delegations suggested and the Special Commission approved that the Secretariat prepare a study dealing with the modalities of the establishment of a compensation fund or other systems of compensation with particular emphasis on possible sources of financing, keeping in view the experience of existing ones.

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9. In spite of these apparent divergences, in my assessment, considerable common ground could be identified. For example, firstly, there was a general agreement that when sea-bed production occurs, if in fact DLBPS are seriously affected, their difficulties should be minimized and they should be helped to make the necessary economic adjustment. Some delegations were of the view that DLBPS may not be seriously affected by sea-bed production, if sea-bed production takes place on an unsubsidized commercial basis, because the very factors that would encourage unsubsidized commercial sea-bed mining, e.g., increased metal demand, higher metal prices, etc., would at the same time be helpful to land-based mining. Some delegations felt that even if DLBPS are affected by sea-bed production, the existing economic measures would be adequate to minimize their difficulties. However, if they prove to be inadequate after careful study, then assistance should be provided by the Authority.

10. Secondly, whatever term is used - "system of compensation" or "measures of economic adjustment assistance" - what is important is that assistance is provided to seriously affected DLBPS. In fact, compensation for adverse effects or economic adjustment assistance for adjusting to adverse effects can achieve the same objective. Some proposed measures can be considered to be compensatory ones from one point of view, and can be termed as measures of economic adjustment assistance from another. In this context, it is interesting to note that the legislative history of article 151, paragraph 10, which addresses the matter of remedial measures, reveals that an earlier draft of this article read, in part, as "compensatory system of economic adjustment assistance in respect of the adverse effects". (LOS/PCN/SCN.1/WP.10, para. 21.)

11. Thirdly, any remedial measure - system of compensation or measure of economic adjustment assistance - will involve finances, either directly, or indirectly because of implicit costs of goods and/or services provided for the assistance of seriously affected DLBPS. Whether these finances would be pooled in the form of a compensation fund or a fund associated with measures of economic adjustment assistance, or would be associated with other measures is a moot issue.

12. Fourthly, assistance to seriously affected DLBPS will be provided under the auspices of the Authority, and not outside its ambit. Even in the case of existing economic measures, the Authority is mandated, in article 151 (10), to co-operate with specialized agencies and other international organizations.

13. Once these commonalities are kept in view, the divergences of the various positions can be narrowed down. Delegations from each of the different groups also expressed willingness to carry on deliberations to this effect. One of the important areas to which the Special Commission should devote itself during the next session is to build upon the common grounds and construct a generally acceptable compromise position. I encourage delegations, especially those which co-sponsored WP.8, CRP.11 and CRP.12, to conduct consultations to achieve this goal.

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## Cause-and-effect relationship between sea-bed production and price or volume of exports of an affected mineral

14. Most of the meetings of the Special Commission during this session concentrated on the item of compensation; however, we also had the opportunity to spend some time on the third item in the work programme, i.e., methods to determine that a reduction in the price of an affected mineral or in the volume of exports of that mineral from DLBPS would have been caused by sea-bed production. It should be added that once it is determined that such a reduction occurred, it is also necessary to define what can be called "serious effects" in the context of the provisions of articles 151 (10) and 150 (h) which address the matter of assisting "developing countries which suffer serious adverse effects on their export earnings or economies resulting from a reduction in the price of an affected mineral or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area".

15. As to the former issue, the problem arises because when sea-bed production occurs, the observed price and volume of exports of DLBPS as compared to those which would have been prevalent without sea-bed production, can be the combined outcomes of sea-bed production as well as other factors. For example, if sea-bed production happens to coincide with the opening of a large new land-based mine, t the resultant price would include the effects of the new supply coming from both the sea-bed and the new land-based mine. One has to isolate the effects of sea-bed supply from those of the supply from the new land-based mine in order to determine the extent of the former.

16. Following this line of reasoning, and based on the ideas contained in paragraph 4 (f) of CRP.9, a number of delegations provided a preliminary list of the relevant factors that may coincide with sea-bed production and have an effect on prices or volume of exports of the minerals concerned, and consequently, the effects of which need to be isolated. This list includes: (a) changes in general economic conditions in the DLBPS concerned, (b) changes in the situation in the metal market, (c) changes in supply from, and cost of production of metals from, other sources, (d) changes in technology with regard to input structure of the mineral industries concerned as well as to the minerals as inputs to end-use, (e) substitution by or for other minerals, (f) natural disasters occurring in the period concerned, (g) strikes or disorders occurring in the period concerned, (h) changes in the reserve and resource positions of DLBPS, (i) changes in recycling pattern, (j) cyclical variations, (k) exchange rate variations, etc.

17. Some delegations pointed out that most of these factors would be observable at the time sea-bed production occurs, therefore, an effective way of addressing the issue would be for the Authority to establish mechanisms for continuing study of the minerals concerned, and for collecting the relevant data and information. This conforms to the provisions of article 150 (f) and 164 (2) (b).

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18. As to the determination of the "seriousness" of adverse effects, it was pointed out that a similar approach can be helpful as in the case of quantifiable yardsticks to be used in connection with the identification of DLBPS likely to be seriously affected by sea-bed production (CRP.8, para. 6). During the next session, at the outset, I hope to submit a conference room paper along this line for the consideration of delegations.

## Future work of the Special Commission

19. The Special Commission is mandated to undertake studies on the problems which can be encountered by DLBPS likely to be most seriously affected by the production of minerals to be derived from the Area, with a view to minimizing their difficulties and helping them to make the necessary economic adjustment, including studies on the establishment of a compensation fund, and submitting recommendations to the Authority thereon. Equipped with a brief outline of the studies to be undertaken in this context (CRP.2), further refined and elaborated upon within an integrated, logically structured framework (CRP.3), the Special Commission during the last three sessions and the current one, has carried out an immense amount of work. Our work has come to a stage where, for the sake of easy reference as well as facilitating the basis of our recommendations to the Authority, the need is acutely felt for making an inventory or taking stock of the tasks already accomplished and the results achieved. Such a need was expressed in the Chairman's report at the conclusion of the last New York meeting. It is my intention to respond to that need through a paper prepared with the assistance of the Secretariat.

20. The work programme for the next session is evident in the above. We should carry out further deliberations on the matter of compensation and try to achieve the compromise position I referred to in paragraph 13 above. In conjunction with this, we should attempt to finalize our conclusions regarding the remedial measures. We should address the issue of the cause-and-effect relationship between sea-bed production and reduction in price or volume of exports of the minerals concerned, in conjunction with the consideration of the proposed conference room paper mentioned in paragraph 18 above. We should also take care of the "loose ends" (refer to para. 2); in combination with this we should complete the task of stock-taking. We should then devote ourselves to the fourth item in the work programme (refer to para. 1), i.e., drawing up recommendations to the Authority. I urge delegations to work on these items during the intersessional period. The Secretariat is also requested to prepare the necessary papers mentioned earlier, subject to the constraints of time and resources.

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New York, 27 July-21 August 1987

# STATEMENT TO THE PLENARY BY THE CHAIRMAN OF SPECIAL COMMISSION 1 ON THE PROGRESS OF WORK IN THAT COMMISSION

1. During the current session, Special Commission 1 started its work by examining a comprehensive inventory of what has been accomplished in the Special Commission during the last three and a half years. The basis of our stock-taking exercise was document LOS/PCN/SCN.1/WP.11, which presents a summary of our work during that period, highlighting the areas of agreement or "common grounds" that emerged during the deliberations. The general feeling in the Special Commission was that the document was acceptable as containing a fairly accurate summary of our work to date. Suggestions were made about improving and updating certain parts of the document, e.g. paragraphs 46 and 47 (e). There was also the understanding in the Special Commission that some of the areas of agreement listed in the document may form the basis of our recommendations to the Authority. Comments were made about acceptability in certain specific cases, e.g. with respect to paragraph 21 (c), and the linkage between paragraphs 47 (c) and 47 (d). I intend to initiate the exercise of drafting recommendations to the Authority during the next session.

2. After the examination of WP.11, in consultation with the open-ended bureau of the Special Commission, a preliminary list of issues was identified as requiring further discussion in the Special Commission in order to conform with our programme of work as laid down in LOS/PCN/SCN.1/1984/CRP.2, and to cover adequately the issues to be dealt with under our programme of work, included in LOS/PCN/SCN.1/1984/CRP.3. This list of issues was presented in LOS/PCN/SCN.1/1987/CRP.13 along with a tentative schedule for discussion of the issues during this session. The Special Commission, then, proceeded with the consideration of these issues.

## Subsidization in relation to sea-bed mining

3. There was a preliminary exchange of views on the issue of subsidization of sea-bed mining. Some delegations were of the opinion that efficient land-based producers would be able to compete with sea-bed production as long as the latter

was a commercial, unsubsidized operation and that the real threat to competitive land-based producers was subsidized sea-bed mining. According to these delegations, for sea-bed mining to be economically viable at least a doubling of current metal prices would be required; at these prices, land-based producers would also be profiting. On the other hand, they contended, if sea-bed mining was introduced, with the help of subsidies, at prices lower than the break-even prices, it would adversely affect existing and potential land-based operations and would only benefit developed consumer countries. These delegations added that the real price of nickel in the year 2000 was forecast by the World Bank to be lower than the 1985 price.

4. According to these delegations, the provision in article 151 (8) of the Convention which deals with unfair economic practices would not be a strong deterrent to subsidized exploitation of sea-bed minerals. The anti-subsidy provisions of GATT were inherently weak and there was a major difficulty in applying them, these delegations maintained; therefore, an anti-subsidization recommendation should be an important element in the recommendations of the Special Commission to the Authority with regard to remedial measures for the problems of developing land-based producer States adversely affected by sea-bed production. These delegations added that new investment in either sea-bed or land-based production of minerals should arise when price and demand signals were sufficiently strong to provide the incentive necessary to develop new deposits. In this context, they maintained, the economic threat of new competition to land-based producers could be effectively met only by long-term internal adjustment of a structural nature in these countries through the redistribution of domestic resources into other areas and/or new investment in efficient production facilities; measures which encouraged the long-term continuation of uneconomic land-based production in a situation where sea-bed mining was more competitive must be avoided.

5. In connection with the discussion on the issue of subsidization of sea-bed mining, these delegations stated that a series of amendments to the financial terms of contracts that have been proposed in Special Commission 3 could tilt the relationship in the Convention between land-based producers and sea-bed producers to the further disadvantage of the land-based producer. In addition, with regard to the critical area of financial incentives, these delegations maintained, sea-bed mining could not be dependent for its existence on a random collection of financial incentives. They also added, in accordance with article 13 (1) (f) of annex III of the Convention, sea-bed mining contractors should not be subsidized "so as to be given an artificial competitive advantage with respect to land-based miners." A further crucial point concerned the operations of the Enterprise, according to these delegations; there might be an inherent difficulty in reconciling the requirement for the Enterprise to function on strict commercial principles with the fact that the Enterprise already enjoyed very substantial operational concessions, in effect subsidies. The Enterprise had an important role to play, they stated, in the development of the resources of the Area to give practical effect to the principle of "common heritage of mankind", but to be a successful, profit-making undertaking it must operate on a sound commercial basis.

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6. Other delegations raised a number of issues while deliberating on the above statements. A question was raised as to how "subsidized mining" could be defined. In this connection, a view was expressed that while the cost structure of land-based mining was composed of three components - capital costs, pre-national tax operating costs and national tax payments - the cost structure of sea-bed mining would have a component additional to these three, i.e., payments to the Authority; the absence of the additional component in the cost structure of land-based production would amount to subsidization of land-based mining as compared to sea-bed mining. Another question was raised as to what could be called "unfair economic practices". While the provisions of the General Agreement on Tariffs and Trade (GATT) on anti-subsidization apply to subsidized exports of minerals, questions were also raised as to whether they apply to the subsidized production of minerals or subsidized exports of sea-bed minerals and whether GATT provisions regarding unfair economic practices apply to sea-bed mining. In this context, a question was raised about the application of GATT provisions to sea-bed mining in view of the fact that these provisions addressed exports from, and imports into, national territories. It was also maintained that a distinction needed to be made between the development of resources of the sea-bed and investment in the national territories. There was a need expressed to obtain information about existing subsidy practices in various sectors, including the agricultural sector, in market economies as well as centrally planned economies; it was pointed out by some delegations that such information might be available in the studies by the GATT.

7. Some delegations raised the issue whether, in view of the fact that the advantages to the Enterprise were conferred in the framework of the "parallel system", these advantages could be called subsidies.

8. Some delegations questioned whether the statement that efficient land-based producers would be able to compete with sea-bed production implied that those land-based producers, mainly developing countries, which were adversely affected by sea-bed production were by definition, inefficient.

9. Some delegations were of the view that even if there was no subsidization of sea-bed mining, when sea-bed mining occurs the very fact that there is a new source of supply of minerals would result in adverse effects on land-based mining; subsidization of sea-bed mining would merely aggravate the situation.

10. Some delegations felt that, in practice, even in some market economies, strategic and security considerations might override considerations of economic efficiency, and that anti-subsidization recommendations, therefore, might be impractical and unrealistic.

11. In my assessment, the preliminary exchange of views on the issue of subsidization of sea-bed mining was very fruitful in that a number of significant points were made. There is a clear need for further deliberations on this issue, which I propose to carry out during the next session.

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## Projections of demand for copper, nickel, cobalt and manganese

12. Projections of demand for the metals contained in polymetallic nodules are important for the work of the Special Commission, especially in order to obtain an idea about the timing of sea-bed production. Projections for the short-term and medium-term future periods are made by a number of public and private organizations. Projections of future demand and prices are being studied by the Chairman's Advisory Group on Assumptions formed by Special Commission 2. The Secretariat has been requested to co-ordinate with Special Commission 2 in obtaining data on projections. The Committee on Natural Resources (CNR) of ECOSOC, in its study of mineral trends, reviews data on projections. Delegations have been urged to keep abreast of the work of CNR. It would be useful for the Special Commission to have a brief synopsis of the projections available in the public domain, especially from the World Bank, the United States Bureau of Mines and Resources for the Future; the Secretariat has been requested to prepare such a synopsis. It would also be helpful if an independent expert could be invited during the next session to make a presentation on demand projection.

## Ways of categorizing serious adverse effects of sea-bed mining

13. It is essential to agree on the formulations to be used by the Authority to determine, when sea-bed mining occurs, whether or not the effects on the export earnings or economies of developing land-based producer States concerned are serious. I suggested certain formulations to categorize such serious effects, essentially using the concept of "trigger" levels. These suggestions are contained in LOS/PCN/SCN.1/1987/CRP.14, and I hope they can form the basis of further discussion with a view to reaching general agreement in the Special Commission.

## Quantifiable yardsticks to be used for the identification of developing land-based producer States likely to be most seriously affected by sea-bed production

14. With regard to the quantifiable yardsticks, the figures suggested by me in LOS/PCN/SCN.1/1985/CRP.8, paragraph 6, appeared to be acceptable to some delegations; however, others pointed out that there was a need for further analysis in respect of the application of the yardsticks, and that premature decisions should be avoided. In my judgement, a continuation of deliberations on this issue is necessary.

## System of compensation and/or compensation fund

15. We had extensive discussion on this issue during the last two sessions; the views of the various delegations on this issue are well-known (see WP.11, paras. 37-46). However, some delegations suggested that there was a considerable scope of building on common grounds; for example, whatever term is used - "system of compensation" or "measures of economic adjustment assistance" - what is important is that assistance is provided to developing land-based producer States affected seriously. Some delegations were of the view that we might come to fruitful conclusions if we had a better idea about the modalities of establishing a compensation fund, and about how the finances for such a fund would be obtained and also about how and for what purposes the finances would be used.

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Other issues

16. It was not possible to discuss two other issues listed in CRP.13 - trade agreements, especially of a bilateral nature, in the context of their role in mineral trade; and isolation of the effects of sea-bed production from those of other factors. Delegations are urged to study these issues during the inter-sessional period so that during the next session deliberations can be carried out.

17. In the course of the discussions on the above issues, the linkages between the work of the other Special Commissions and the plenary and that of Special Commission 1 were very apparent. This is not unusual in view of the interrelated nature of the work of the Preparatory Commission. I would like to draw the attention of the Preparatory Commission to the need for dealing with the linkages in a co-ordinated manner.

18. The inherent difficulty of the work of Special Commission 1 cannot be underestimated in view of the fact that we are dealing essentially with a situation which may arise in the future. The usual difficulties of dealing with the future are compounded, in our case, by three crucial factors: the currently depressed metal markets and their influence on how the future prospects are viewed; the extremely dynamic nature of the development of the technology for mining and processing sea-bed minerals; and the possibility of considerations other than the so-called price-cost relationships prevailing in the development of sea-bed minerals. This may lead to confusion which can be the breeding ground for unproductive speculations.

19. In view of the above, some delegations suggested that we should build various alternative scenarios for the future and think of corresponding solutions. These delegations added that the very nature of the mandate of the Special Commission implies that our attention should be focused on certain specified scenarios.

20. For the next session, I would like to suggest a provisional programme of work; with the objective of proceeding with our work in a systematic fashion, we should attempt to address the issues in the following order; we should, of course, bear in mind the need for flexibility:

(a) issues discussed in paragraphs 3-11 above;

(b) issues discussed in paragraph 12;

(c) issues discussed in paragraph 13;

(d) issues discussed in paragraph 14;

(e) issues discussed in paragraph 15;

(f) issues discussed in paragraph 16; and

(g) issues discussed in paragraph 1 above.

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## STATEMENT TO THE PLENARY BY THE CHAIRMAN OF SPECIAL COMMISSION 1 ON THE PROGRESS OF WORK IN THAT COMMISSION

1. Since its inception Special Commission 1 has organized its work in such a way as to be able to discharge its ultimate responsibility in due time, that is, to make recommendations to the Authority, on relevant matters after undertaking studies on the problems which would be encountered by developing land-based producer States likely to be most seriously affected by the production of minerals derived from the Area with a view to minimizing their difficulties and helping them to make the necessary economic adjustment, including studies on the establishment of a compensation fund. At the end of this session, the Bureau of the Special Commission and the Special Commission itself took stock of its deliberations over the past several sessions, and came to the conclusion that a large and diverse number of issues have been studied to a sufficient extent, and also identified a few gaps which needed to be addressed. Among the former set of issues, there are some on which agreements have been reached, and there are some others regarding which further efforts needed to be expended, not in terms of undertaking studies alone but also in terms of negotiations among various groups which held divergent positions. Essentially for the purpose of negotiations and arriving at agreed recommendations with regard to these unresolved issues, the Special Commission decided that a Working Group would be formed which would be open-ended in composition, would commence functioning early next session, and would share the meeting times allocated to the Special Commission. It would concentrate on all the unresolved issues, especially the issue of compensation to developing land-based producer States which could suffer serious adverse effects resulting from future sea-bed production, and the issue of subsidization to sea-bed mining and its impact on developing land-based producers. The Special Commission itself will continue its work, in tandem, on any issue which delegations feel should be brought up; it will attempt to have specific discussions on the issues which were identified as gaps, namely: (a) recycling of copper, nickel, cobalt and manganese with emphasis on the latter three metals; (b) substitution of these metals by other metals or materials, and vice versa; (c) projection of future supply-demand-price of these metals along with a continuous updating of the data on various aspects related to the mineral situation; (d) bilateral trade in these metals including barter trade; and (e) commodity agreements which have relevance for these metals.

## Work programme for this session

2. During this session the Special Commission held 8 meetings and the Bureau of the Special Commission held 3 open-ended meetings. The work programme for this session was suggested tentatively in my report at the end of the last session. The Bureau of the Special Commission adopted that work programme, indicating priority items and providing room for flexibility. Accordingly, the Special Commission carried out its work on the issue of compensation fund and/or system, the issue of subsidization, the issues of projection of demand-supply-price of the minerals concerned, categorization of serious adverse effects of sea-bed production, quantification of yardsticks to identify developing land-based producer States likely to be most seriously affected by sea-bed production, trade agreements, especially of a bilateral nature, isolation of the effects of sea-bed production from those of other factors, and preparation of recommendations to the Authority.

## Issue of compensation fund and/or system

3. According to article 151 (10) of the Convention the Authority shall establish a system of compensation or take other measures of economic adjustment assistance including co-operation with specialized agencies and other international organizations to assist the developing countries which suffer serious adverse effects resulting from sea-bed production. In the past the Special Commission held extensive discussions on the existing international or multinational economic measures which could be of relevance to its work. It also had discussions on measures of economic adjustment assistance, including proposals by some delegations. In the past, the discussions in the Special Commission on a system of compensation were also extensive. Since there is a specific mention of studies on the establishment of a compensation fund in the mandate of the Special Commission, it carried out discussions on this matter during this session. The starting point of the discussion was a background paper prepared by the Secretariat - "Modalities of the establishment of a compensation fund and/or a system of compensation: financial considerations (LOS/PCN/SCN1/WP.12) - and a set of questions posed by myself in this connection. Emphasizing that financing is the crux of the matter and in fact, the _sine qua non_ of the viability of a compensation system or fund, the Secretariat paper concentrated on the possible sources of financing for such a system or fund for alleviating the problems of developing land-based producer States resulting from future sea-bed production. Delegations seemed to agree with the premise and focussed their discussion on the issue of financing, with the understanding that the issues of the mechanism, structure and organization of a compensation fund can be dealt with at a later time, although some preliminary ideas on these issues were voiced. The questions I posed also addressed matters related to financing, in most part.

4. Early in the discussion, three distinct groups emerged: one group of delegations was of the view that a compensation fund should be established, another group of delegations was not receptive to the idea of a universal compensation fund, and a third group of delegations expressed great difficulties with the idea of the Authority's own measure, be it a compensation fund or any other measure of economic adjustment assistance, which would automatically increase the financial burden of the Authority. The group which supported the establishment of a compensation fund, maintained that the establishment of such a fund was either obligatory under the

Convention or a valid and specified option which was preferred, and that a compensation fund which was not universal would violate the principles of universality and multilateralism which is embodied in the Convention. A bilateral approach with regard to the compensation fund, this group argued, would cause problems because such an approach failed to consider the interests of the resource-poor developing importers which intended to reduce their imports from their fellow developing countries by participating in deep sea-bed mining for self-sufficiency, whereas resource-rich developed countries which need not import minerals, would be free from that kind of burden even though they participate in deep sea-bed mining. Similarly countries which have traditionally imported minerals from developed exporters bear no responsibility to reach a bilateral agreement; this may lead, they contended, to a noticeable shift of importing partners from land-based developing producer States to developed producer States before sea-bed mining commences. They also maintained that a bilateral approach, by its very nature, involved two States - one in a superior position and the other in an inferior position with the former dictating the terms of the bilateral agreement. The group that opposed a universal compensation fund was not, however, averse to the idea of a specific compensatory machinery on the basis of the participation of a limited number of countries, for example, a group of States who voluntarily participated in such a machinery, or the traditional importing and exporting partners. In this context, this group of course preferred a bilateral machinery. The group that opposed the Authority's own compensation fund argued that there are existing international or multilateral measures, including compensatory schemes, which should be relied upon; they maintained that the experience and the expertise that have accumulated in the implementation of such existing measures could be drawn upon, the familiarity with the economies and the problems and potentials of developing land-based producer States that has been gained by the organizations responsible for these measures could be put to use. This, they maintained, would be a cost effective way of minimizing the difficulties of developing land-based producer States, and would avoid duplication of efforts in this regard.

5. On the surface, the discussion appeared to be a replay of what transpired in the past and it appeared that we were back to "square one"; however, it was pointed out by some delegations, with whom I concur, that in terms of clarification of certain parameters we made considerable progress. For example, the group that supported the establishment of a compensation fund appeared to be open to ideas; it did not rule out resources originating from a bilateral approach, and neither did it intend to inflict financial burden on the Authority.

6. In case a compensation fund is established, on the matter of sources of financing of such a fund there were a number of ideas. Mention was made of a percentage of profits of contractors and of the Enterprise. A percentage of revenues of the Authority from other sources, with the exception of assessed contributions made by members of the Authority to meet administrative expenses, was also mentioned. It remained unclear, however, whether these funds would be additional to the ones coming from the similar sources that would comprise the funds of the Authority or simply a part of the Authority's funds. If they were additional resources, some delegations pointed out that

it would create additional burdens on the contractors and the Enterprise alike. Even if they were not additional resources, some delegations expressed doubts as to the extent to which Authority's funds would be available for the purpose of compensating developing land-based producer States. They pointed out that the administrative expenses of the Authority shall be a first call upon the funds of the Authority. The assessed contributions made by members of the Authority may not be sufficient to cover the administrative expenses in which case the Authority has to draw upon the other sources of funds for this purpose. In any case the assessed contributions would be made only until the time when the Authority shall have sufficient income from other sources to meet its administrative expenses. Besides administrative expenses the Authority may have other obligatory expenses; these expenses should be given priority, some delegations argued. It was contended by some delegations that after meeting these obligatory expenses the Authority should give priority to compensation. Other delegations pointed out that after meeting these obligatory expenses the Authority might be left with no or meagre resources.

7. In identifying sources of financing, some delegations preferred to keep the options open and to "keep the door open" for the Economic Planning Commission. Some delegations suggested that those States which benefit from sea-bed mining, as producers or consumers, should contribute to the compensation fund: the central banks of those States should also be tapped for borrowed funds. Some delegations suggested that those contractors who violate the production limitation provisions should contribute to the compensation fund. It appears to me that there is no dearth of innovative ideas in this connection, and all such ideas should be carefully examined.

8. With regard to the question whether compensation to developing land-based producer States should be paid from the compensation fund alone, some delegations were in favour of such an arrangement. They however contended that it should be ensured that the compensation fund should have adequate resources.

9. As to the form in which compensation would be paid to developing land-based producer States, some delegations preferred grants alone, some others preferred concessional loans alone, and still others preferred a mixture of those two forms. Some delegations stated that they were open as to direct cash payments or indirect assistance in the form of transfer of technology or training. Some delegations suggested that whatever form the payments took what was important was that the resources should be expended by the recipient developing land-based producer States on efforts to increase productivity and improve competitiveness in the mining industries concerned.

10. As to the *modus operandi* of a compensation fund there appeared to be general agreement that certain elements of the EEC-ACP's STABEX scheme could be useful as a model. The STABEX scheme covers only agricultural products; however, these elements seem to be common to the EEC-ACP's SYSMIN which covers mineral products. These elements are the dependency thresholds, reference levels, and trigger thresholds. In order to determine preliminary eligibility for compensation, the idea of dependency thresholds could be used - these could be expressed in figures which would in some way reflect the degree to which a developing land-based producer State is dependent upon the minerals concerned. Then, if there are adverse effects resulting from sea-bed

production, the situation subsequent to sea-bed production can be compared to the situation prior to sea-bed production. The situation prior to sea-bed production can be expressed in terms of reference levels. The adverse effects themselves can also be characterized with the help of trigger thresholds. Once the adverse effects exceed those trigger thresholds, some action on the part of the Authority would be triggered off. It should be pointed out that the deliberations in the Special Commission in the past addressed similar ideas. For example, the suggestions I made in LOS/PCN/SCN.1/1985/CRP.8 involve dependency thresholds; the suggestions I made in LOS/PCN/SCN.1/1987/CRP.14 involve reference levels and trigger thresholds.

11. On the question whether the compensation fund would be a separate account or would be a part of the general account of the Authority some delegations preferred that it should be a separate account. They maintained that since the fund would be a special one for specific purposes, a separate account would be preferable. This, they added, would help expediting the procedures for making compensation payments and also would be more effective in discharging its responsibilities.

12. In connection with the discussion on compensation, one delegation made a proposal that Special Commission 1, besides recommending the establishment of a compensation fund and the utilization of other existing remedial measures, should recommend to the Authority that international forums be set up and promoted for the following purposes: (a) creation of proper scientific, technical and industrial environment necessary for the development and expansion of copper, nickel, cobalt and manganese extractive industries in developing land-based producer States; (b) promotion of co-operation among developing land-based producer States in the exploitation and utilization of the mineral commodities concerned; and (c) promotion of economic policies among developing land-based producer States geared towards making these States economically independent and self-sustaining by encouraging downstream processing of the four minerals concerned. This delegation referred to the efforts of the Economic Commission for Africa in this context, in organizing forums at which strategies for the development and utilization of mineral resources in Africa are discussed by technical personnel and policy makers, in particular to the upcoming Third Regional Conference on the Development and Utilization of Mineral Resources in Africa, to be hosted by Uganda in June 1988.

13. In our on-going studies of existing and possible remedial measures, my attention was also drawn to two suggestions contained in a document of the Committee on Natural Resources (CNR) of the ECOSOC (E/C.7/1987/8). In view of the recent shift of demand towards the so-called specialty metals, a suggestion was made that efforts should be promoted in developing land-based producer States towards diversification of their mineral industries in these metals. The second suggestion stemmed from the fact that a recent trend is noticeable towards demand for new materials. Efforts should be promoted so that copper, nickel, cobalt and manganese could be used as inputs in producing these new materials.

## Issue of subsidisation of sea-bed mining

14. Continuing our discussion on this issue which was raised during the last session, some delegations reiterated that the real threat to developing land-based mining States was subsidized sea-bed mining. Other delegations agreed that subsidized sea-bed mining was one cause of adverse effects on developing land-based producer States, not the only cause; they reiterated that sea-bed mining itself would cause harmful effects, and subsidized sea-bed mining would aggravate the situation.

15. Some delegations pointed to the problems of defining "subsidized mining", "unfair economic practice", "artificial competitive advantage", etc. Some delegations argued that the very concept of subsidization did not pose an insurmountable problem, and that the concept of subsidization essentially involved the injection of financial resources into a mining operation that cannot sustain itself financially. More specifically put, the concept of self-sufficiency in financial terms of any mining project, these delegations maintained, involved the recovery of all production costs, including normal profits, related to the production process and the process of marketing minerals out of a single revenue source coming out of the sale of the output on the mineral markets, to buyers having no commercial ties to the producers. Some delegations agreed on this matter and offered an alternative formulation having similar meaning: a subsidized mining project was one whose estimated cost of production (capital and operating costs per unit of minerals(s), calculated at arms's length market prices) was well above current and projected market prices for the mineral(s) in question. Following this approach, an important distinction could be made, those delegations contended, between the temporary and transitory incentives which were sometimes provided even in land-based mining and systematic financial support provided over a major period of a project life.

16. Focusing on anti-subsidy measures, the current GATT provisions that are referred to implicitly in article 151(8) were considered to be saddled with problems of definition and also inadequate and ineffective, in general. Hopes were expressed that the on-going deliberations in the Uruguay Round of GATT Negotiations would succeed in tackling the problems and eliminating the shortcomings.

17. Some delegations felt that following the approach to the characterization of subsidized sea-bed mining operation as mentioned above, what was appropriate was to ensure that the Authority would effectively take into account the financial viability of any sea-bed mining project on the basis of self-financing before it would grant any production authorizations. In this connexion, they maintained, it would be important to ensure that the Authority be endowed with powers that would enable it first to evaluate precisely whether any given sea-bed mining project can be self-financing, that is, can go on without outside financial inputs, and secondly, to see to it that the Authority effectively take into account these elements when the time comes for it to evaluate requests for production authorizations. According to these delegations, such endeavours along with the possible improvements resulting from the Uruguay Round of Negotiations would be significant in dealing with the issue of subsidized sea-bed mining.

18. Taking a similar approach to the characterization of subsidized sea-bed mining operation, some delegations felt that the regulations governing, *inter alia*, the issuance of production authorizations and the definition of commercial production, on financial arrangements, and those determining conditions which affect plans of work, and the transparency of the audit process, would be crucial to ensuring that sea-bed mining operates on a sound commercial basis. They expressed the need to consider these matters in detail in the appropriate forum of the Preparatory Commission. They also felt that a specific recommendation against unfair economic practices, which addresses the problem of subsidisation of sea-bed mining should be an important element of the Preparatory Commission's recommendations to the Authority. These delegations stated that they were working with other like-minded countries in putting together the key elements that such a recommendation might incorporate.

19. Some other delegations were of the view that the issue of subsidisation had been addressed in the Convention after lengthy negotiations, and that the relevant provisions of the Convention contained a balance of rights and obligations which reflected a consensus among the parties to the GATT agreements. Any change or elaboration of these matters, they maintained, should be taken up by the Contracting Parties of GATT at present engaged in the Uruguay Round of Negotiations. They also added that the concerns of the land-based producers should not lead us to adopt a system which would be over-protective to land-based mining and endanger the proper development of the resources of the Area.

### Projection of demand-supply-price of the minerals concerned

20. In order for the Special Commission to have an idea about the future market situation which would be faced by land-based and sea-bed miners, it needed to study projections of future demand, future supply and future price of the minerals concerned. Few significant points came up in the course of studying the World Bank projections contained in the CNR document mentioned above. There is a downward trend in the intensity of use of some of the minerals concerned, in particular copper and nickel, in developed market economies which at present are the major consumers of these minerals, and this appears to be a permanent structural feature of these economies. Mainly based on this trend the projections for future demand for these minerals show a declining growth rate.

21. There was some discussion centering on a few questions I posed with regard to factors that are important in determining future demand-supply-price. There was a general agreement that factors affecting future demand as well as those affecting future supply need to be studied. Mineral prices are of various types, mineral commodities are traded in various forms each of which has a corresponding price, various kinds of transactions take place in various markets. It was pointed out that some idea needs to be obtained about a variety of prices rather than *a* future price of a mineral concerned.

22. A need was felt acutely for further data and information about projected demand, supply and price. Similar need was expressed in other bodies of the Preparatory Commission, especially Special Commission 2. In fact, one of the areas that the Special Commission 2 Chairman's Advisory Group on Assumptions

is studying is projections for future demand-supply-price. There was a happy coincidence this session that the Co-ordinator of that Advisory Group was one of the Vice-Chairmen of Special Commission 1. Effective co-ordination was achieved and will continue in the work of the various bodies of the Preparatory Commission with regard to data and information on projections, and accordingly, the efforts of the Secretariat in this connection will be made in an integrated fashion. In fact, the data and information needs of Special Commission 1 and other bodies of the Preparatory Commission cover not only projections, but also a variety of aspects of the mineral situation. For example, in a working paper prepared by the Secretariat for Special Commission 1 (LOS/PCN/SCN.1/WP.2/Add.1) the Secretariat presented data on production, consumption, exports, imports and prices of copper, nickel, cobalt and manganese, on a country-by-country basis, covering the 10-year period 1973-1982. These data were collected from published sources. There is a need for updating the data contained in that document, covering the recent past period and also for continued updating in the future. In response to a note verbale transmitted by the Secretary-General States themselves provided data on past and current production, consumption, exports and imports, production capacity, plans and projections for future production. These data were presented in LOS/PCN/SCN.1/WP.2/Add.3. This type of data endeavours should be carried out on an on-going basis. In concurrence with the Advisory Group, Special Commission 1 suggests that for the purpose of keeping abreast of the mineral situation the Secretariat should develop a cost-effective data bank and in due time, should prepare periodic reports highlighting the salient developments in the mineral situation.

23. Due to the substantive difficulties and high costs involved in projecting future demand-supply-price of the minerals concerned, I feel that the purposes of the Special Commission could be served through monitoring the trends and developments in demand-supply-price and all factors related thereto, and through reviewing various projections from various sources along with the explanations of the differences in the various projections, if available.

## Categorizing serious adverse effects of sea-bed production

24. Keeping in mind the need for agreed formulations to be used by the Authority to determine, when sea-bed mining occurs, whether or not the effects on the export earnings or economies of developing land-based producer States are serious, I had made certain suggestions in LOS/PCN/SCN.1/1987/CRP.14. The discussion on these suggestions during this session touched upon several aspects.

25. According to some delegations, effects on export earnings rather than on economies should be considered because the latter are extremely difficult, if not impossible, to pinpoint. Other delegations disagreed, and would include effects on economies in their consideration; these delegations pointed out that as a result of sea-bed production there would be a reduction in the price of an affected mineral or in the volume of exports of that mineral and this would lead to adverse effects on export earnings; this would also lead to adverse effects on economies; however, there might be cases when a developing land-based producer State in dire need of foreign exchange would increase volume of exports as price falls so that its export earnings remain the same. In these cases, they maintained, just looking at export earnings may not give a correct picture of the adverse effects.

26. As to the figures I included for the trigger thresholds, there was no agreement. Some delegations suggested different figures, some others suggested that the figures should be specified at a later time when sea-bed mining is imminent. Some delegations suggested that, whatever the figures were, they should vary depending on factors like population, per capita income, etc.

27. It seems to me that the framework presented in CRP.14 for the purpose of categorizing serious adverse effects of sea-bed production may be acceptable. It also appears to me that the general trend among delegations is to wait for a later time before specifying the figures.

### Isolation of effects of sea-bed production

28. There was an intensive discussion on the issue of how to isolate the effects of sea-bed production from those of other factors since the observed prices and volumes of exports of the minerals concerned, after sea-bed production occurs, would be a combined outcome of such factors and sea-bed production. A number of factors have been mentioned in this connection: changes in market conditions, exchange rate fluctuations, interest rate fluctuations, use of scrap, change in consumption pattern, stockpiling policy, import and export policies, changes in economic conditions in the developing land-based producer States concerned, supply from and cost of production of metals from other sources, e.g. newly developed deposits on land, marine minerals within national jurisdiction, marine minerals from the international area outside the Convention regime, changes in technology, changes in substitution patterns, etc. Some of these factors are external to the developing land-based producer States themselves, some internal. Mention was also made of the possibility that with sea-bed production consumer behaviour itself may change in terms of a shift from meeting consumer needs from land-based sources to meeting those needs from sea-bed sources.

29. In view of the difficulties involved in isolating the effects of sea-bed production from those of other factors, some delegations suggested that one should look at reduction in price or volume of exports alone; the problem of isolating the effects of sea-bed production could be subsumed through the use of appropriate trigger thresholds following this approach.

### Quantification of yardsticks to identify developing land-based prodcer States likely to be most seriously affected by sea-bed production

30. I had suggested certain quantifiable yardsticks in this regard in LOS/PCN/SCN.1/1985/CRP.8. It appeared to me that delegations required more time in reaching agreement on the suggested yardsticks, although the framework of the quantification of the yardsticks appeared to be acceptable.

## Bilateral trade

31. In view of the fact that bilateral trade including barter trade accounts for a significant part of trade in mineral commodities, and that effects of sea-bed production may be easier to pinpoint through an examination of the changes in the bilateral trade patterns, there was a need in the Special Commission to study such trade and the related bilateral trade agreements. However, it is extremely difficult to obtain detailed information on bilateral trade and bilateral trade agreements. Delegations are urged to provide the Secretariat with relevant information, that can be made available outside the constraints of confidentiality.

32. Some delegations pointed out certain problems with bilateral trade, notably the potentially unequal exchanges that may be involved in such trade. Some delegations mentioned that an effective barter trade arrangement could only be made when the two parties concerned have a wide range of commodities to be exchanged; they also cautioned about the possibilities that barter trade might displace third party markets of one of the two partners.

## Issue of recommendation

33. The process of arriving at agreed recommendations in the Special Commission and the Working Group mentioned above will be an on-going one, with continuous feedbacks between each other. The Special Commission, through the Chairman assisted by the Secretariat, will synthesize inputs from various sources - deliberations in the Special Commission, deliberations in the Working Group, suggestions and proposals by individual delegations or groups of delegations, 'corridor discussions', etc.

34. The preparation of the report of the Special Commission containing the recommendations will follow at a later date. In preparing the report, relevant materials from the work of the Special Commission to date, its work in the future and the future efforts of the Working Group, will all be integrated.

## Concluding remarks

35. During the next session we should concentrate on a two pronged approach - attempting to arrive at conclusions through the work of the Special Commission itself and that of the Working Group. In order to facilitate the work of the Special Commission on the five areas where gaps have been identified (refer to paragraph 1 above), the Special Commission, through the Preparatory Commission, requests the Secretariat to prepare working papers on each of the five topics, as time and resources available to the Secretariat permit. I feel confident that in each of the future sessions we will come closer to the discharge of our ultimate responsibility, that is, submitting recommendations to the Authority, through the Preparatory Commission.

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# STATEMENT TO THE PLENARY BY THE CHAIRMAN OF SPECIAL COMMISSION 1 ON THE PROGRESS OF WORK IN THAT COMMISSION

1. In accordance with the agenda formulated at the conclusion of the sixth session and endorsed by the Bureau of Special Commission 1 at the beginning of the current session, the Special Commission organized its work during the session along the following lines: (a) discussion on one or more of the five topics that have been identified during the last session as gaps which needed to be covered in order to fulfil our overall work programme; (b) in the context of our study on the remedial measures for developing land-based producer States (DLBPS), obtaining information on the work of the Third Regional Conference on the Utilization and Development of Minerals in Africa held recently in Kampala, Uganda; (c) continuation of deliberations on any issue which delegations felt should be brought up - two important ones that came up in this connection were the issue of how to isolate the effects of sea-bed production from those of other factors, and the issue of subsidization of sea-bed mining; (d) deliberation on the issue of recommendations of the Special Commission, through the Preparatory Commission, to the International Sea-Bed Authority; and (e) commencement of the work of the *Ad Hoc* Working Group that was established at the end of the last session in order to carry out negotiations on certain unresolved issues. The identified gaps mentioned above pertain to: (a) recycling of copper, nickel, cobalt and manganese, with emphasis on the latter three metals; (b) substitution of these metals by other metals or materials and vice versa; (c) projection of future supply-demand price of these metals, along with a continuous updating of the data on various aspects related to the mineral situation; (d) bilateral trade in these metals, including barter trade; and (e) commodity agreements which have relevance for these metals.

2. During the current session, the Special Commission held seven meetings, and the Bureau of the Special Commission and the *Ad Hoc* Working Group each held three open-ended meetings.

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Identified gaps

3. Since the five gaps mentioned above were identified from a comprehensive list of topics and issues that comprise the overall work programme of the Special Commission, it is understood that the gaps would be filled over a period of time. During the session, the Special Commission concentrated on the topic of projection of future supply-demand price of copper, nickel, cobalt and manganese, along with a continuous updating of the data on various aspects related to the mineral situation. This topic has three aspects: (a) projection of supply-demand price of the four minerals concerned; (b) an update of the data presented in an earlier document (LOS/PCN/SCN.1/WP.2/Add.1) - this document prepared in 1984 contained data up to 1982, the most recent year for which data were available at that time, these data pertaining to production, consumption, exports, imports and prices of the four minerals concerned, on a country-by-country basis, including world totals; and (c) a continued updating of data in the future.

4. With regard to the first aspect, projection, the Special Commission had the opportunity to listen to a presentation made by an expert from the World Bank which carries out short- and long-term projections for various commodities. The Special Commission expresses its appreciation to the World Bank, and to the expert himself, Mr. Theophilos Priovolos.

5. Out of the four minerals in which the Special Commission is interested, the World Bank carries out projections for copper and nickel only. The projections extend up to year 2000, and the projection exercise is carried out, and the results reported, every two years. In connection with the projection exercise, the mineral situation is under study continuously; there are, thus, half-yearly, quarterly, and monthly reports on the mineral situation. Econometric models incorporating supply-demand price equations are used for the purpose of projection. The results of the econometric modelling exercise are reviewed and modified, if necessary, by market analysts through the so-called Delphi method which involves incorporating opinions of experts in the field. The price projections are used by World Bank loan-officers responsible for administering loans to countries, in project appraisal.

6. According to the World Bank projections, as viewed today in 1988, unless any unforeseen changes occur either on the demand side or the supply side, world copper and nickel demand in the decade of the 1990s would grow at a much lower rate than in the 1970s and early 1980s period; the estimates of growth rates of world demand in the 1990s are 1.9 per cent and 1.2 per cent for copper and nickel, respectively. The recent surge in copper and nickel demand is believed to have been caused by short-term factors, which would have very little effect on long-term projections.

7. However, several pertinent points were made: (a) the degree of confidence in long-term projections is much lower than in short- and medium-term projections; (b) the mineral situation needs to be under constant study so that unforeseen developments, if any, can be spotted and their implications for long-term projections examined; (c) unforeseen developments, if sustained for a period of time, can have significant effects on long-term projections; (d) for the purpose of

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appraising a particular project, the internal rate of return is calculated, but price projections pertain to only one side of the exercise, the other side involving the estimates of cost of production in that project; (e) an investment decision is not made on the basis of internal rate of return only, other considerations also enter the picture.

8. The presentation by the World Bank contained a variety of useful information, and a large amount of statistics. It is understood that the presentation was excerpted from the biennial report under preparation at this time and expected to be issued late this year. It would be helpful if relevant parts from that report could be circulated among delegations so that they have an opportunity of studying it carefully. The Secretariat is requested to contact the World Bank in order to make necessary arrangements to this end. It is also noted that apart from the World Bank, other international, regional and national organizations, public and private, also carry out long-term projections for one or more of the four minerals concerned. It would be extremely helpful for the work of Special Commission 1, and in fact for the work of other Special Commissions and the Preparatory Commission itself, if information about such projections could be obtained. The Secretariat is requested once more to expend efforts to this effect and, if possible, to prepare a paper summarizing the results of various projection exercises, if available in the public domain.

9. With regard to the update of data, the Secretariat has prepared document LOS/PCN/SCN.1/WP.2/Add.5, containing data up to 1986, the most recent year for which data are available, on production, consumption, exports and imports of copper, nickel, cobalt and manganese, on a country-by-country basis, including world totals. Unfortunately, for technical reasons, the document could not be issued during the session. The Special Commission was informed of its contents, and is looking forward to having the document at its disposal.

10. With regard to a continued updating of data in the future, the Secretariat informed the Special Commission that the work on the development of a Mineral Database has been initiated for this purpose. Various categories of raw data on the four minerals concerned are available from different databases and publications within and outside the United Nations system. Raw data on the categories relevant for the work of Special Commission 1 are being extracted from these existing sources and put in one place. The database will also include data obtained through the responses from States to the notes verbales transmitted by the Secretary-General. A continued updating of the data would be most efficient through the use of such a database. In addition, carrying out various types of statistical functions useful for the work of Special Commission 1 would be facilitated; dissemination of processed information is also expected to be timely. As I mentioned in my last statement to the plenary, the needs for a continued updating of certain data and information are common to Special Commission 1 and other bodies of the Preparatory Commission. For example, the Special Commission 2 Chairman's Advisory Group on Assumptions has shown interest in the updated data on the behaviour of prices of the four minerals concerned. The Special Commission, thus, appreciates the efforts of the Secretariat in the development of the Mineral Database.

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11. Having addressed one of the five gaps, delegations wished to deal with two of the remaining four gaps, recycling and substitution, as priority items during the next session, because recycling and substitution are already affecting the markets for the relevant metals negatively. In order to facilitate the discussion during the next session, the Secretariat is requested to prepare background papers on these two topics.

## Kampala Conference

12. Since some of the African States might be among the DLBPS most likely to be seriously affected by future sea-bed production, the Special Commission had an immense interest in information about the work of the Kampala Conference. The Special Commission heard reports about the Conference from two delegates, from Zambia and Uganda, who attended the Conference, and from the Secretariat.

13. The Kampala Conference, held from 5 to 16 June 1988, was a follow-up of the First and Second Regional Conferences on the Development and Utilization of Mineral Resources in Africa, held in Arusha, United Republic of Tanzania, in 1981 and in Lusaka, Zambia, in 1985, respectively. The economic problems in the late 1970s led to the adoption of two significant programmes by the African Heads of States - United Nations Programme of Action for Africa's Economic Recovery and Development (UNPAAERD) and Africa's Priority Programme for Economic Recovery (APPER). Within the framework of these Programmes, the Economic Commission for Africa (ECA) was mandated to organize periodical conferences addressing the problems of the mineral sector of Africa.

14. The work of the Kampala Conference was extremely relevant for the purpose of the Special Commission, delegations felt. According to ECA, the African mining sector had experienced growing difficulties in the 1980s, which had led to production falls of up to 75 per cent of 22 mineral commodities over the last five years. There were concerns about, among other factors, alternative sources of supply and a decline in the demand from developed consumer countries. A solution is being sought within the framework of strengthened regional co-operation. Efforts are being made in increasing the utilization of minerals and mineral-based products in the national economies of the producing countries and in the economies of the African region. In this context, a strategy is being pursued with regard to industrialization in the African economies based on mineral products. Opportunities are being sought, in this connection, for establishing and expanding fabricating plants for copper and aluminium, and for producing agro-minerals, for example. A necessary element of the strategy is to increase intra-African trade in minerals and mineral products. In addition to other advantages, this would reduce import dependency on developed countries. With regard to production, efforts are being expended in reducing costs. Medium- and small-scale deposits are playing a contributing role in this context.

15. In these efforts, the African mining sector is, of course, encountering a number of problems, the most important of which are: (a) lack of investment funds for fabricating industries; (b) lack of detailed information about the overall import substitution and new demand potentials in the region; (c) difficulties in breaking traditional trading patterns, including end-product import policy

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dominated by aid donors; (d) urgency of earning foreign exchange while the opportunities for the minerals to be absorbed in the region are being pursued; and (e) difficulties involved in multinational planning to match regional demand from regional supply.

16. The Kampala Conference also addressed specifically the problems that might be encountered by African mining States resulting from future sea-bed production. The Ministers of African States responsible for the mineral sector made several recommendations, one of which addressed this issue. In this recommendation, it was urged that it be ensured that the exploitation of the common heritage resources in the international sea-bed area benefited mankind as a whole, and that, to mitigate the adverse impact of sea-bed mining on the economies of developing land-based producers, modalities for the payment of financial compensation, be established or other means of compensation, including economic adjustment systems, be implemented.

17. The Special Commission was appreciative of the endeavours of the African States. The Special Commission wishes to have a report on the Conference along with its recommendations, as well as the statements made in the Special Commission by Uganda, the current Chairman of the Conference, and the Secretariat as part of its records. The Secretariat is urged to contact ECA so that arrangements could be made to this effect.

### Isolation of effects of sea-bed production

18. Discussion on this issue continued during the session. This is a key issue because, according to article 151, paragraph 10, of the Convention, to which the mandate of the Special Commission is related, assistance would be provided to "developing countries which suffer serious adverse effects on their export earnings or economies resulting from a reduction in the price of an affected mineral or in the volume of exports of that mineral, *to the extent that such reduction is caused by activities in the Area*" (underlining added). Thus, the sequence that needs to be studied is: sea-bed production -> reduction in price or volume of exports of an affected mineral -> adverse effects on export earnings or economies of DLBPS -> assistance to DLBPS. In fact, some delegations emphasized the fact that if it could not be established that reduction in price or volume of exports of a mineral had been caused by sea-bed production, assistance to DLBPS might not be implemented.

19. As I mentioned in my earlier reports, the issue is a complex one, because as sea-bed production occurs, what needs to be compared is price and volume of exports of a mineral in a situation where there is no sea-bed production with price and volume of exports of that mineral in a situation where sea-bed production occurs. In the real world, the condition of *cateris paribus* does not exist; as sea-bed production occurs, this may coincide with other factors which contribute to the reduction in price and volume of exports.

20. Some delegations felt that further discussions and studies by the Special Commission were required to deal with the issue. However, from the discussion, certain preliminary conclusions can be drawn. It appears to me that the isolation of the effects of sea-bed production from those of other factors is technically feasible, if not in a perfect manner, as an approximation. The problem is not

unique - examples were given of the investigation of the cause-and-effect relationships between changes in energy price and changes in metal price. Various methods exist for the purpose of isolating the effects of a given factor from those of other coincidental factors. Mention was made of the trend-line method and of the econometric method. At this time, it is extremely difficult, in fact almost impossible, to predict whether or to what extent coincidental factors could exist at the time sea-bed production occurs. Theoretically, two extreme situations can be conceived: one where no coincidental factors exist, and the only factor that is important is sea-bed production, and the other where a multitude of coincidental factors occur at the same time when sea-bed production occurs. However, as sea-bed production occurs, the Authority would be able to observe whether and to what extent coincidental factors do occur.

21. A general agreement in the Special Commission emerged that the Authority would be in a better position to deal with the issue. In this context, certain suggestions were made which appeared extremely useful for the purpose of the Authority in implementing assistance measures for DLBPS. A step-by-step procedure was suggested, based on the provisional conclusions I had made in documents LOS/PCN/SCN.1/CRP.14 and CRP.9. After sea-bed production occurs, the DLBPS which consider themselves affected by sea-bed production would raise the issue with the Authority, presenting corroborating facts and studies. The Authority would also keep abreast of the situation by studying the extent of changes in certain items - price, volume of exports, export earnings, level or rate of growth of gross national product, level of employment, level of foreign exchange reserves, etc. If these changes equal or exceed certain specified levels (the so-called trigger levels) the Authority would undertake studies, on a case-by-case basis for each DLBPS, which, among other things, would determine whether and to what extent the effects resulted from sea-bed production. The terms of reference of such studies are included in LOS/PCN/SCN.1/CRP.14 and CRP.9. The implementation of the assistance measures would depend on the results of such studies.

22. While the above step-by-step procedure seemed to be acceptable to all delegations in principle, questions were raised about several matters. For example, with respect to the items the changes in which would be studied by the Authority, some delegations preferred items reflecting export earnings. Other delegations would like to include items reflecting both export earnings and economies. With respect to the period over which the changes would be studied, some delegations suggested that a longer period than one year after sea-bed production occurs should be considered. With respect to the trigger levels, some delegations suggested that studies of the fluctuations in the recent past period needed to be carried out. In addition, when a DLBPS applies to the Authority what would be included in its application needs to be deliberated upon by the Special Commission.

23. In this context, some delegations, basing themselves on the provision contained in the last part of article 151 (10), suggested that the DLBPS which consider themselves likely to be affected by sea-bed production might also raise the issue with the Authority, and the Authority would initiate studies on the problems of such States with a view to minimizing their difficulties and assisting them in their economic adjustment. However, what would be included in the

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application of these States and the procedure of the Authority's initiating studies need to be deliberated upon by the Special Commission.

24. Other useful suggestions were also offered by delegations. Some delegations suggested that the Authority should have close supervision of sea-bed mining operations so that violations of the provisions of the Convention by contractors could be penalized through payment of compensation to DLBPS. Some delegations suggested that after the initial assistance measures are implemented, the affected DLBPS would make periodic reports for the purpose of long-range programme of assistance. Some delegations suggested that the study of bilateral agreements between traditional developing exporting States and traditional developed importing States was the most effective way of dealing with the issue of isolating the effects of sea-bed production. Some delegations suggested that an "early spotting" system should be developed by the Authority to study the interrelationships between land-based and sea-bed mining - this would be helpful in determining the possible effects of sea-bed production.

25. I feel that considerable progress has been made on this issue. In the future, we should be able to build upon the various suggestions and to conclude deliberations on this issue.

## Issue of subsidization of sea-bed mining

26. During the session, although delegations mainly reiterated their positions on this issue, I could detect progress in some areas. Some delegations emphasized the adverse consequences of subsidized sea-bed mining: subsidization of sea-bed mining, they contended, would distort the metal market, cause premature exploitation of resources which could have benefited future generations, lead to a loss of competitiveness for the Enterprise and a loss of revenues for the Authority. They cited a number of Convention provisions which, according to them, implied the intention of the drafters of the Convention that sea-bed mining should be carried out in a commercial approach with considerations of economic viability. Some delegations were of the view that under changed conditions characterized by low metal prices and high costs of technology development, sea-bed mining might require some support.

27. With respect to measures addressing the issue of subsidization of sea-bed mining, some delegations felt that the provisions included in the Convention for that purpose would be sufficient. Some delegations felt that these provisions, combined with the outcomes of the ongoing negotiations in GATT, would suffice. Some delegations, while contending that these might not be sufficient, felt that the Special Commission could draft a recommendation for the Authority for this purpose. Some delegations felt that appropriate rules and regulations of the Authority might be required, especially to avoid time-consuming dispute settlement procedures.

28. In spite of the divergent positions, some delegations agreed that with respect to DLBPS, sea-bed mining itself might have adverse effects on them, and that subsidized sea-bed mining would exacerbate the situation. Also, when some delegations mentioned that they were working on a proposal addressing the issue,

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other delegations, irrespective of their differing views on the issue, expressed willingness to study the proposal. During the next session the Special Commission, thus, will look forward to deliberations on such a proposal, when put forward.

## Issue of recommendation

29. Over the years we have carried out a number of studies and a considerable extent of discussions. Since making recommendations to the Authority is our ultimate task, I have been urging delegations to consider whether we could initiate the process. During the session, delegations agreed that, as the Chairman, I should start examining whether certain conclusions could be drawn up on those issues which have been sufficiently deliberated upon. In this endeavour, I should scan through the discussions in the Special Commission. One starting point could be the "areas of agreement" listed in document LOS/PCN/SCN.1/WP.11. It is understood that the process would be an ongoing one, and the conclusions would be of a preliminary nature. These conclusions, when finalized, could then be the basis for recommendations to the Authority.

30. During the next session I intend to share with delegations some outcomes of my endeavour. I would also urge delegations to offer suggestions with regard to such conclusions.

## Working Group

31. The Ad Hoc Working Group commenced its deliberations during the current session under the chairmanship of Ambassador Karl Wolf (Austria). It was clarified that its mandate was to carry out negotiations on certain unresolved issues, especially the issue of a system of compensation for DLBPS which might suffer serious adverse effects resulting from sea-bed production, and the issue of subsidization of sea-bed mining and its impact on DLBPS. The outcomes of its negotiations would be reported to the Special Commission, on the basis of which recommendations on these issues would be prepared. It would continue functioning in the future sessions as long as is necessary.

32. The Working Group is open-ended in composition. It was agreed that, in order to facilitate negotiations, flexibility would be important with respect to the timing of its meetings and procedures. It was also agreed that the Working Group would share meeting time with the Special Commission, unless it asked specifically for separate meetings.

33. I would like to include the report of the Chairman of the Working Group, which is as follows:

> "During this session, the Working Group decided to deal with the issue of a system of compensation as a priority item, since the central matter in the work of the Special Commission is to find what could be done about DLBPS, if they are affected by future sea-bed production. The three meetings during the session were devoted mainly to organizational matters: to prepare an initial work programme, to have all the relevant documents at the disposal of delegations, and to create a state of preparedness to work out solutions to issues unresolved thus far.

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> "From the initial discussion it appears that the crucial point is that in order for any assistance measure of the Authority to work, a system of responsibility would have to exist or would have to be created. Delegations appeared to be willing to negotiate, bearing this guiding principle in mind."

## Work programme for the next session

34. During the next session, we will continue filling in as many of the five gaps in our overall work programme mentioned above as possible, starting with the topics of recycling and substitution, and moving on to the topics of bilateral agreements and commodity agreements, if feasible. We will also deal with any other matters which delegations feel should be brought up. The Working Group will continue working on the matters included in its mandate. I would also expect our work on reaching conclusions to be carried out in concrete terms.

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## STATEMENT TO THE PLENARY BY THE CHAIRMAN OF SPECIAL COMMISSION 1 ON THE PROGRESS OF WORK IN THAT COMMISSION

1. On behalf of the Special Commission and its Bureau, I am pleased to report that during this session the Special Commission has made extremely significant progress in its work. The ultimate mandate of the Special Commission is to submit recommendations to the International Sea-Bed Authority on ways and means for minimizing the difficulties of developing land-based producer States likely to be most seriously affected by future sea-bed production and for helping such States to make the necessary economic adjustment. Since the beginning of its deliberations in 1984, the Special Commission has discussed a number of issues related to that mandate. During this session, at the request of the Special Commission, a list of sixty-six provisional conclusions was prepared, based on these discussions, which can form the basis of its recommendations to the Authority.

2. This list (LOS/PCN/SCN.1/1989/CRP.16) covers, with very few exceptions, all the subjects falling under the programme of work of the Special Commission. It reflects areas of agreement, areas where agreement is emerging, and areas that will be important for the Authority in discharging its responsibilities towards developing land-based producer States. The list also includes certain areas where negotiations are still continuing in the Special Commission's *Ad Hoc* Working Group. Thus, while the list is neither exhaustive nor definitive, it constitutes the first and the most important concrete step towards the formulation of the Special Commission's recommendations to the Authority. I would like to express my appreciation to the delegations and the members of the Bureau for their co-operation and guidance which made it possible for us to take this step. It is my hope that delegations will take this document to their capitals, consult with their Governments during the intersessional period, and come back at the next session ready and willing to finalize the list and formulate the recommendations to the Authority.

3. In tandem with the Special Commission, the Ad Hoc Working Group carried out intensive negotiations on certain unresolved matters in a business-like manner. As is evident from the report of the Chairman of the Ad Hoc Working Group, included below, a compromise solution is imminent with regard to at least one matter - criteria for the identification, after sea-bed production occurs, of the developing land-based producer States actually affected, and before sea-bed production occurs, of the developing land-based producer States likely to be affected.

Programme of work for the session

4. The Special Commission, its Ad Hoc Working Group, and its Bureau held 9, 5 and 3 meetings, respectively. The Special Commission devoted its meetings to the consideratiion of (a) the report on the work of the Third Regional Conference on the Development and Utilization of Mineral Resources in Africa, held in Kampala, Uganda, in June 1988, under the auspices of the Government of Uganda and the Economic Commission for Africa (ECA); (b) updated data on copper, nickel, cobalt and manganese; (c) recycling of these four minerals; (d) substitution for and by these four minerals; (e) application to the Authority for remedial measures by a developing land-based producer State actually affected or likely to be affected by sea-bed production; (f) other matters, especially effects of subsidized sea-bed mining, and finally, (g) the issue of recommendations to the Authority. The Ad Hoc Working Group concentrated on the matter of a compensation system; its meetings, however, were utilized in considering a related matter - criteria for the identification of the developing land-based producer State actually affected or likely to be affected by sea-bed production. The Bureau made recommendations on (a) the programme of work for tne session, (b) the note verbale and the enclosed questionnaire to be transmitted by the Secretariat to Member States requesting statistics on certain items relevant to the work of the Special Commission, and later, of the Authority, and (c) the progress report for the session.

Kampala Conference

5. Document LOS/PCN/SCN.1/WP.5/Add.3 contains the statements made at the sixth session by Uganda, the Chairman of the Conference, and by the Secretariat, and a report by ECA. At the conclusion of the Kampala Conference, the Ministers of African States responsible for the mineral sector made a number of recommendations, which primarily addressed ways and means of alleviating the problems of the mineral sector in Africa, especially in the context of falling prices and demand during the last decade.

6. The Special Commission felt that all the recommendations were very pertinent to its own work, and discussed three specific recommendations which it saw as having direct relevance thereto. The first of these was the African Ministers' recommendation that it would be premature to form African associations concerned with specific minerals or groups of minerals. It was explained by some delegations that this did not imply opposition by African Ministers to commodity agreements; rather they wished to evaluate the benefits to African States from such agreements. The Ministers felt that intensified interaction among Member States and African producers of mineral raw materials and mineral-based products under the auspices of the economic groupings would be a better alternative at this time.

7. Another recommendation addressed the issue of financing new mineral resources development projects and rehabilitation of existing production facilities from the resources of various funding agencies. Some delegations welcomed this approach; others, however, pointed out that the demand for capital for mineral resources projects remained very high.

8. A third recommendation which was extremely relevant for the Special Commission addressed the issue of adverse effects of future sea-bed production on the African mining sector. The African Ministers urged African States to participate in the on-going negotiations of the Preparatory Commission to ensure (i) the preservation of the fundamental concept of equitable sharing of the financial benefits accruing from the commercial exploitation of the common heritage resources; and (ii) the establishment of modalities for the payment of financial compensation or the implementation of other means of compensation including economic adjustment schemes so as to mitigate the adverse effects of mining the resources of the common heritage of mankind on the economies of developing land-based producer States. Co-operation between ECA and the United Nations Office for Ocean Affairs and the Law of the Sea in assisting Member States to achieve the above objectives was stressed, and the need to draw on expertise within the United Nations Office for Ocean Affairs and the Law of the Sea in dealing with the question of sea-bed mining was emphasized.

## Updated data

9. The discussion centred around the statistics presented by the Secretariat on production, consumption, export and import of copper, nickel, cobalt and manganese, by country and world total, on an annual basis for the period 1981 - 1986, and on the importance of these minerals in the total export earnings and GDP of developing land-based producer States (document LOS/PCN/SCN.1/WP.2/Add.5). This document is an update of document LOS/PCN/SCN.1/WP.2/Add.1, which presented statistics for the period 1973 - 1982.

10. Both the Secretariat and delegations drew attention to few errors and omissions in the statistics; these will be corrected by the Secretariat in due course.

11. There was extensive discussion with regard to the statistics. Some delegations were of the view that since Special Commission 1 deals with developing land-based producer States, the statistics of other countries were not required. Other delegations felt that world-wide statistics were important to provide an overview of the world mineral situation which was relevant for developing land-based producer States.

12. Some delegations were of the opinion that statistics on production and exports are sufficient for the Special Commission's. Other delegations emphasized the need for statistics on consumption and imports in order to be able to view the world supply-demand situation in its totality. In this context, some delegations felt that statistics on stocks, by country and world total, would be useful. Others thought that statistics on reserves could also be of use.

13. Some delegations felt that export and import statistics at a highly disaggregated level, by stages of processing, can be confusing and may in some cases incorporate double or even triple counting; statistics at an aggregated level would therefore be preferable. Attention should also be paid to distinguishing between exports and re-exports, they added.

14. Some delegations questioned the usefulness of collecting and disseminating statistics at this time. Others pointed out the need for statistics to facilitate the work of the Special Commission itself, as well as the need for historical data for the purposes of the Authority.

15. The lack of availability of some types of statistics, especially on cobalt and manganese consumption and trade, was also discussed. Some delegations suggested that certain commodity-related institutes, e.g. the Cobalt Development Institute and the Iron and Steel Institute (for manganese statistics) might be good sources of data in this respect.

16. Firm statistics for certain countries, some of which are developing land-based producer States, were not available in the United Nations sources. It was suggested that in such cases, the respective national Governments should be requested to provide statistics, subject to any restrictions for the sake of confidentiality.

17. The Secretariat was once again instructed to develop and maintain a database by compiling data from sources in the public domain - databases and publications of international organizations, national organizations, commodity associations/study groups/institutes - and from national Governments.

18. It may be recalled that a note verbale requesting such information was transmitted to national Governments in 1984, and adequate responses were received by the Secretariat. The Bureau of the Special Commission held a meeting for the specific purpose of giving guidance to the Secretariat with regard to the design of the questionnaire enclosed with the note verbale. The Secretariat was instructed to develop a simple questionnaire with clearer explanatory notes and indications of priority items.

19. Finally, some delegations emphasized that there was a danger of getting too involved in the intricacies of data-collection exercises, and that what was important was to obtain sufficient statistics for the purpose of assisting developing land-based producer States who would be affected by future sea-bed production.

## Recycling

20. The discussion was based on document LOS/PCN/SCN.1/WP.2/Add.6 presenting information on the current pattern of recycling of the four metals concerned, and on the trends and developments which may have a bearing on the pattern of recycling in the future.

21. The supply of recycled metal has an impact on the demand for primary metal, and can thus affect developing land-based producer States.

22. Changes in demand for metals and alloys, in fabrication techniques, in the technology for scrap identification and refining as well as environmental considerations are important factors influencing the pattern of recycling. The use of scrap for recycled metal is determined by a range of factors, including the availability and quality of scrap, price, cost of processing, purity requirements, technology, user standards, and government policies with regard to environment and conservation.

23. The current pattern and future potential of recycling vary from metal to metal. In the case of copper, between 20 and 40 per cent of demand in developed countries is met by recycled copper. In the case of nickel, the proportion is about 25 per cent. Cobalt is recycled, but to a lesser extent than copper and nickel. The recycling of manganese through the recycling of steel is quite high.

24. Some delegations provided information on recycling activities in their own countries as well as on national policies and regulations for promoting recycling and conservation of natural resources.

25. A need was felt for statistics on secondary production. Some delegations suggested that commodity study groups, e.g. the proposed International Nickel Study Group and the proposed International Copper Study Group, would be able to provide such data. In this connection, it was pointed out that developing land-based producer States should be encouraged to participate in such study groups in order to keep abreast of developments in the mineral situation.

26. It was generally agreed that the Authority should monitor the trends and developments with regard to the recycling of the four metals concerned, in order to evaluate the impact of recycling on the mineral situation and on eveloping land-based producer States and to isolate its effects from those of sea-bed mining.

## Substitution

27. Since substitution can have a significant impact upon the copper, nickel, cobalt and manganese industries and thus, on developing land-based producer States, dicusussions were carried out on substitution on the basis of a paper prepared by the Secretariat (document LOS/PCN/SCN.1/WP.2/Add.7). The paper provided information on the current situation with respect to substitution for and by these metals, and also on future substitution potentials in certain key end-use sectors.

28. Substitution can take three forms: direct substitution for one metal by another; substitution for a metal by an "engineered materials; and substitution for a conventional technology that requirs a metal by a new technology with different metal/material requirements. All three forms of substitution may affect the four metals concerned.

29. Copper faces competition from aluminium in electrical and automotive industries. There has also been growing competition from non-metallic materials in building and construction industries. Fibre glass is competing with copper in telecommunications industry. Nickel use is strongly tied with

steel use. The changing composition of various classes of steel in end-uses may, in fact, increase the use of nickel in the steel industry. Cobalt faces competititon from "engineered" materials in the production of superalloys used in jet engine. Cobalt may also have to compete with alternative magnetic materials. Manganese is essential in the production of iron and steel; however, steel is subject to competition from other materials. Manganese requirements in the production of steel may also decline in the newer steel-making technology.

30. It was generally agreed that in view of the significant effect of substitution on future metal demand and therefore on developing land-based producer States, the Authority should monitor the trends and developments with regard to substitution, study the effects of substitution on developing land-based producer States and attempt to isolate the effects of substitution from those of sea-bed mining.

## Application by developing land-based producer States for remedial measures

31. A developing land-based producer State affected by the impact of sea-bed mining will be able to apply to the Authority for remedial measures. At the sixth session there was some discussion on the content of such applications and the procedural matters related to their processing. Discussions were held at the present session to elaborate on this matter.

32. The first action would be taken by the developing land-based producer State which considers itself affected by sea-bed production. In its application to the Authority it would:

(a) Identify itself as a developing land-based producer State by providing statistics on production, volume of exports, export earnings from one or more of the four metals concerned;

(b) Identify the changes that it feels occurred because of sea-bed production: decrease in price, decrease in volume of exports, decrease in export earnings, other effects on its economy (i.e. decrease in GDP or GNP, decrease in rate of growth of GDP or GNP, decrease in level of employment, decrease in foreign exchange reserves, etc.);

(c) Indicate why it considers that the above effects have resulted from sea-bed production and not as a result of other factors;

(d) Indicate what kind of remedial measure it requires, and to what extent.

33. Having received the application, the Authority would:

(a) Determine whether the applicant State's production, volume of exports and export earnings from one or more of the four metals concerned exceed a certain specified level called the dependency threshold;

(b) If the dependency threshold is exceeded, determine whether the effects that are considered to have resulted from sea-bed production exceed a certain specified level that is called the trigger threshold;

(c) If the effects exceed the trigger threshold, will undertake studies on a case-by-case basis in order:

(i) to determine whether and to what extent the effects resulted from sea-bed production in the Area; and

(ii) to decide on the necessary remedial measures.

34. At the sixth session it was also pointed out that the Convention provides for certain actions by a developing land-based producer State which considers itself likely to be affected. It was generally agreed that in such cases the first action would again be taken by the developing land-based producer State itself. In its application to the Authority, it would:

(a) Identify itself as a developing land-based producer State by providing statistics on productiion, volume of exports, export earnings from one or more of the four metals concerned;

(b) Present projections of its production, volume of exports and export earnings from one or more of the four metals concerned in a scenario not involving sea-bed production; and

(c) It must present projections of the variables above, in a scenario including sea-bed production.

35. Having received the application, the Authority would:

(a) Undertake studies on the potential effects on the applicant State under various projections for the levels of sea-bed production;

(b) If the above studies warrant it, recommend measures to minimize the potential adverse effects.

36. Some delegations pointed out that according to the Convention, the applications should be submitted to the Economic Planning Commission which will then examine the applications, undertake the necessary studies and if the studies warrant it, make recommendations to the Council with regard to remedial measures.

Issue of subsidized sea-bed mining

37. The delegation of Australia introduced a proposal (LOS/PCN/SCN.1/1989/CRP.15) addressing the issue of subsidized sea-bed mining. Recognizing that subsidized sea-bed mining is likely to exacerbate the adverse effects of sea-bed mining on developing land-based producer States, the proposal includes a draft recommendation to the Authority to the effect that the Authority should take all steps necessary to ensure an orderly and economically rational development of the resources of the Area, pursuant to the relevant provisions of the Convention, that there should be adequate surveillance of States Parties' compliance with their obligations in this connection, and that the Authority should also develop rules, regulations and procedures to ensure that the exploitation of the resources is carried out on an economically viable basis and in accordance with sound commercial principles.

38. Some delegations, supporting the proposal. said that in addition to minimizing adverse effects on developing land-based producer States, sea-bed mining in accordance with sound commercial principles would be in the best long-term economic interest of producers and consumers.

39. Some delegations felt that subsidization is only aspect unfair economic practices, a subject which is with in the Convention, as well as by other international fora, e.g. GATT. The formulation of rules, regulations and procedures, if at all necessary, should be the domain of Special Commission 3, they maintained.

40. Some delegations felt that the issue of subsidized sea-bed mining should be linked with the issue of compensation to developing land-based producer States.

41. There seemed to be general agreement that the matter should be taken up in the Working Group of Special Commission 1, whose mandate already includes the issue of subsidized sea-bed mining.

## Proposal by Pakistan

42. The delegation of Pakistan made a proposal (LOS/PCN/SCN.1/1989/CRP.17) addressing the issues of (a) criteria for identification of developing land-based producer States, (b) criteria to determine adverse effects of sea-bed mining on developing land-based producer States, and (c) a system of compensation,

43. The proposal included concrete criteria for identifying developing land-based producer States likely to be affected by sea-bed production, and for characterizing what would be considered adverse effects of sea-bed mining on such States. It called for the establishment of a compensation fund to be financed by contributions from those States/entities,including the Enterprise, which would derive benefits from sea-bed mining.

44. There was some discussion on the proposal, and delegations agreed that the proposal would be deliberated upon in depth in the Working Group.

## Issue of recommendation

45. As I mentioned at the outset, the Special Commission gave me a mandate to prepare provisional conclusions of the Special Commission's deliberations, which can form the basis for its recommendations to the Authority. I have done so in document LOS/PCN/SCN.1/1989/CRP.16. I sincerely hope that this document will facilitate the discharge of our ultimate responsibility of submitting recommendations to the Authority.

## Ad Hoc Working Group

46. The Special Commission conveys its appreciation to the former Chairman of the Ad Hoc Working Group, Ambassador Karl Wolf (Austria), who has retired. The Working Group continued its deliberations under the Chairmanship of Mr. Luis Giotto Preval Paez (Cuba). The report of the Chairman of the *Ad Hoc* Working Group, reads as follows:

"Pursuant to the priority established by the Working Group at the sixth session, it concentrated on the issue of a system of compensation. It proceeded in a step-by-step fashion, dealing as a first step with the criteria for identifying of developing land-based producer States likely to be affected by sea-bed production.

"The Group seemed to agree that the characterization of adverse effects of sea-bed production on the export earnings or economies of developing land-based producer States involved a combination of two aspects. The first aspect is that the individual developing land-based producer Stats have to be dependent to a certain degree on one or more of the four minerals concerned. The second aspect is that there has to be a decrease of somwhat substantial extent in the export earnings of individual developing land-based producer States from the exports of these minerals, or an unfavourable change of somewhat substantial extent in the economies of such States.

"The Group then attempted to characterize both the dependency aspect and the aspect of somewhat substantial unfavourable change after sea-bed production occurs, in a quantifiable manner with the use of some figures, that are called dependency levels and trigger levels, respectively.

"Certain suggestions about dependency levels and trigger levels were put forward by myself (document LOS/PCN/SCN.1/1989/CRP.18). The proposal by Pakistan, mentioned earlier, also contained certain suggestions.

"The suggestions about the dependency levels involved various factors, the two primary ones being expressed in terms of percentages of total export earnings of particular developing land-based producer State contributed by one or more of the four minerals concerned, and in terms of value of exports of these minerals.

"There were also suggestions that developing land-based producer States should be categorized in three groups: (i) affected, (ii) seriously affected, and (iii) most seriously affected.

"The Group had intensive discussions based on these suggestions. Some delegations expressed reservations that the use of dependency levels and trigger levels, and categorization in three groups may run the risk of excluding some developing land-based producer States which may require assistance. Other delegations felt that for the purpose of the Authority's preparedness to assist and of minimizing the costs of administering assistance measures, the above ideas were extremely useful.

"There was also intensive discussion about the figures to be used for the purpose of dependency levels and trigger levels.

"It is my assessment that the differences among delegations are narrowing down, and with further efforts, we should be able to reach compromise solutions."

## Programme of work for the future

47. Special Commission 1 has completed discussions on all the topics under its mandate except three: (i) bilateral trade, including barter trade in the four minerals concerned, (ii) commodity agreements or commodity associations/study groups related to the four minerals, and (iii) projection of future supply-demand-price of the four minerals. These three topics will be deliberated upon at the next session, and the Secretariat is requested to prepare, if possible and as time and resources permit, background papers on them to facilitate our deliberations. Over the period 1985-1987, the Special Commission received extensive information about a number of existing international and multilateral economic measures which can be of relevance in alleviating the problems of developing land-based producer States. That information needs to be supplemented by information on new developments since 1987, especially in the programmes of Common Fund, the United Nations Industrial Development Organization (UNIDO) and United Nations Department of Technical Co-operation for Development (UN/DTCD). The Secretariat is requested to disseminate such information to facilitate our discussion on the relevant existing measures.

48. Finally, since the basis of our recommendations to the Authority has been provided in document LOS/PCN/SCN.1/1989/CRP.16, we should make utmost efforts to build upon that basis in order to finalize the recommendations. The outcomes of the deliberations of the Working Group which will continue during the next session will be incorporated in the recommendations following the due process.

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# STATEMENT TO THE PLENARY BY THE CHAIRMAN OF SPECIAL COMMISSION 1 ON THE PROGRESS OF WORK IN THAT COMMISSION

1. It is my pleasure to report to the plenary that Special Commission 1, after a number of sessions deliberating on ways and means for minimizing the difficulties of developing land-based producer States (DLBPS) likely to be most seriously affected by future sea-bed production, has initiated its work, during the current session, to fulfil its ultimate mandate, that is, to submit recommendations to the International Sea-Bed Authority on the matter. The work proceeded on the basis of 66 provisional conclusions, contained in document LOS/PCN/SCN.1/1989/CRP.16, which had been prepared by me at the end of the last session held in Kingston.

2. At the same time, the deliberations during the session in the Ad Hoc Working Group of Special Commission 1, which has been mandated to carry out negotiations on certain unresolved issues, especially those of a system of compensation for DLBPS and subsidization of sea-bed mining, have also produced some significant results that are expected to lead to solutions to the issue of a system of compensation.

3. In this connection, I should like to put on record my appreciation for the productive contributions made by the members of the Special Commission as well as by the participants in the Bureau of the Special Commission and in the Ad Hoc Working Group. It is only due to their co-operation and solution-seeking efforts that we could make such significant progress during the session.

## Programme of work for the session

4. The Special Commission held six meetings, its Bureau two meetings and its Ad Hoc Working Group four meetings. At the outset of the session, the Bureau recommended that the work of the Special Commission should concentrate on the consideration of the provisional conclusions contained in conference room paper 16. This would begin with a general discussion followed by the consideration of the provisional conclusions one by one. It was understood that the list of provisional conclusions included in conference room paper 16 was neither exhaustive

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nor definitive. New conclusions could be added to the list resulting from suggestions of delegations and continued discussion in the Special Commission on certain topics on which preliminary discussion had taken place but further extensive discussion was necessary. Five topics fall under the latter category: (i) bilateral trade in copper, nickel, cobalt and manganese, including barter trade; (ii) commodity agreements or commodity associations/study groups related to the four metals; (iii) projection of future supply-demand-price of the four metals; (iv) supplementary and updated information on existing international and multilateral economic measures which can be of relevance in alleviating the problems of DLBPS; and (v) updated information on various aspects with regard to the four metals on a country-by-country basis, including responses to a second note verbale to be transmitted to States. For future sessions, the Secretariat is urged to prepare background papers on these five outstanding topics so that the Special Commission may complete its deliberations on them. The Bureau agreed additionally that the outcomes of the negotiations in the *Ad Hoc* Working Group would also be added to the list of provisional conclusions.

5. The Bureau further recommended that the *Ad Hoc* Working Group should continue its deliberations during the current session, sharing meeting time with the Special Commission and convening its meetings after the Special Commission had adjourned.

## Provisional conclusions; general discussion

6. The Special Commission adopted the above recommendations of the Bureau. In the general discussion, it was agreed that the consideration of the provisional conclusions one by one could constitute a "first reading". Delegations would be able to re-examine the provisional conclusions after an overview was gained as a result of the first reading.

7. Some delegations pointed out that there was an interrelationship between the issues dealt with in Special Commission 1 and those in other Special Commissions. In due time, the outcomes of the work of all the organs of the Preparatory Commission needed to be viewed together, according to these delegations, so that co-ordination and harmonization could be achieved.

### Provisional conclusion 1

8. This provisional conclusion deals with the question of which sea-bed minerals the Authority should concentrate its work on. Some delegations preferred the deletion of the phrase "at the initial stage"; other delegations concurred. Some delegations were of the view that while the Authority should concentrate its work on polymetallic nodules it should try to obtain an idea about the possible timing of commercial sea-bed production; other delegations did not disagree with this view. Notwithstanding these agreed modifications, one delegation expressed a reservation on the ground that the Authority's work should not involve sea-bed minerals other than polymetallic nodules.

### Provisional conclusion 2

9. This provisional conclusion deals with the question of which of the metals and the non-metallics contained in polymetallic nodules the Authority should deal with. Consistent with the modification in provisional conclusion 1, it was agreed that the phrase "at the initial stage" should be deleted. Some delegations preferred the deletion of "non-metallics", but there was no general agreement on the matter.

### Provisional conclusion 3

10. This provisional conclusion deals with the issue of forecasting by the Authority with regard to copper, nickel, cobalt and manganese with and without sea-bed production. There was a fruitful exchange of views about the possibility that, in respect of forecasting, the Authority can draw upon existing data, information, analysis and also forecasts available from international, regional and national organizations, both public and private. This would not prejudice the Authority's task of carrying out forecasting of the metal situation with and without sea-bed production; however, it would enable the Authority to carry out the exercise in the most cost-effective manner and would render the exercise considerably less expensive. In this context, an agreement emerged that not only in connection with forecasting, in particular, but also in connection with studying the problems of DLBPS, in general, the Authority should make use of existing data, information and analysis available from international, regional and national organizations, public and private, and furthermore, that the Authority might be able to carry out the exercises in co-operation with those organizations. This would be the most cost-effective manner in which the Authority could discharge its functions in these areas. This agreement led to a generally acceptable suggestion that a "chapeau" provisional conclusion embodying these agreed-upon ideas should be included. Referring to forecasting of the metal situation, some delegations suggested specific mention of supply, demand and price; there was no disagreement on this suggestion. It was also suggested that the word "minerals" should be replaced by "metals". Referring to the timing of the first forecasting exercise, a suggestion was made that the timing should be aligned to the first application(s) for approval of plan(s) of work for exploitation; the suggestion was acceptable by the Special Commission.

### Provisional conclusion 4

11. Provisional conclusions 4-8 pertain to the assessment of the relationship between production from the Area and land-based production. In the discussion of provisional conclusion 4 and the latter ones, one fact emerged that has relevance also for the other sections. Under each section (there are altogether six sections in conference room paper 16) a set of individual provisional conclusions is presented without any introductory text placing the individual provisional conclusions in a context. In due time, the Special Commission may wish to give some thought as to whether the individual conclusions under each section should be introduced through a "preambular" paragraph so that they can be viewed in a context rather than appearing to be "hanging loose", as it were.

12. Provisional conclusion 4 relates to the question whether the Authority should assess the relationship between production from the Area and production from land on a mineral-by-mineral basis. This provisional conclusion seemed to be broadly acceptable with the understanding that the assessment did not imply an elaborate and costly study by the Authority. It was also felt that, in view of the close relationship of this provisional conclusion with provisional conclusion 6, both could be put together.

### Provisional conclusion 5

13. This provisional conclusion deals with the time frame of the assessment mentioned above. It was suggested that time frames of short, medium and long term would be useful; however, the wording in the provisional conclusion may need to be clearer. It was also broadly acceptable that the assessment should be carried out on an ongoing basis.

### Provisional conclusion 6

14. This provisional conclusion addresses the issue of the Authority studying the supply-demand situation as pertaining to the individual DLBPS. Some delegations pointed out that the study of the supply-demand situation in individual DLBPS would have to be in the context of the world supply-demand situation; there was no disagreement on this.

15. In the course of the discussion of this provisional conclusion, some delegations specifically mentioned a "leitmotif" underlying their position, which also has a bearing on many earlier and latter provisional conclusions this leitmotif being the consideration that financial implications of the functions of the Authority, be it carrying out "studies" or "assessment" or "forecasting", should be minimal. Other delegations appeared to agree with this view, although they would not like this consideration to prejudice the functions of the Authority. It appears to me that there is a meeting of minds and the concerns of both sides could be addressed satisfactorily. In this connection, one delegation expressed its reservation on provisional conclusion 6 pending a clear idea about financial implications.

### Provisional conclusion 7

16. This provisional conclusion relates to the study of the supply-demand situation in both so-called "open" and "controlled markets". Some delegations pointed out the fact that the topic of bilateral trade, including barter trade, which is a common phenomenon in the "controlled market", has not been discussed in depth in the Special Commission. Doubts were expressed by some delegations about the accessibility to information with respect to the "controlled market", which is often of a confidential nature. Other delegations pointed out that DLBPS affected or likely to be affected by sea-bed production might make such information available to the Authority. For the same reasons as in the case of provisional conclusion 6, one delegation expressed its reservation on this provisional conclusion.

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Provisional conclusion 8

17. This provisional conclusion pertains to the terms and conditions of specific trade agreements that a specific DLBPS has with other States. Some delegations expressed difficulties with the word "study"; it was agreed that it should be replaced by "take into consideration".

18. Some delegations felt that provisional conclusions 6, 7 and 8 were closely linked and therefore should be combined. Other delegations did not have any strong preference one way or the other.

Provisional conclusion 9

19. Provisional conclusions 9-31 fall under section 3 which deals with the identification, definition and measurement of effects of sea-bed production on DLBPS. Some delegations felt that a re-ordering of the provisional conclusions would be useful if done in such a manner as to place first those provisional conclusions dealing with the definition and criteria of identification of affected DLBPS.

20. Provisional conclusion 9 relates to the effect of sea-bed production. Some delegations preferred replacing the word "consider" by "study". The provisional conclusion appeared to be broadly acceptable.

Provisional conclusion 10

21. This provisional conclusion deals with the issue of the effects which sea-bed mining would have on the price or volume of exports of a mineral. Some delegations maintained that only the effects of exploitation of the resources of the Area should be addressed because in their view exploration would not affect the price or volume of exports. Even in the case of exploitation, according to some delegations, it was very difficult to isolate the effects of sea-bed production from those of other factors. Other delegations preferred retaining "exploration for, and exploitation of", since the mere fact of exploration having taken place, as well as the results thereof, could affect the price of the mineral concerned. It seemed to me that the term "activities in the Area" as defined in the Convention might offer a solution.

Provisional conclusion 11

22. This provisional conclusion relates to a State-by-State consideration of the effects of sea-bed production. Some delegations felt that only the cases of those States would be considered which apply to the Authority; this provisional conclusion, however, opened the door to any State. In the view of some delegations, priority should be given to the requests of States which would be likely to be most seriously affected by sea-bed production. Some delegations pointed out that the study of the effects should be carried out on a mineral-by-mineral basis.

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Provisional conclusions 12-14

23. Provisional conclusion 12 relates to the establishment of mechanisms for the purpose of isolating the effects of sea-bed production from those of other factors. Provisional conclusion 13 relates to an agreed methodology to be devised by the Authority for isolating the effects of sea-bed production. Provisional conclusion 14 mentions certain factors that would be taken into account in devising such a methodology. In view of the obvious links among the three conclusions, some delegations suggested combining them. This was acceptable to the Special Commission. It was clarified that for isolating the effects of sea-bed production from those of other factors what was needed were data and information, studies, mechanisms for collecting the relevant data and information and for carrying out the studies and, finally, a methodology to determine the effects of sea-bed production and to separate these effects from those caused by other factors. In the listing of the latter factors, different views were offered as to whether to include general economic conditions in the DLBPS concerned, government policies and exhaustion of land-based deposits in the DLBPS concerned. Suggestions were made to include a catch-all factor entitled "other relevant factors".

Provisional conclusion 15

24. This provisional conclusion relates to the study of bilateral trade agreements in connection with the isolation of the effects of sea-bed production. The view was expressed by some delegations that the phrase "cause and effect" was too vague. Some delegations emphasized the need to take into account traditional export-import relationship. It was also pointed out by some delegations that this provisional conclusion was related to the two previous ones.

Provisional conclusion 16

25. This provisional conclusion relates to the quantification of the effects of sea-bed production. It was pointed out by some delegations that in order to be consistent with the Convention the wording should be "effects on export earnings or economies of DLBPS" rather than "export earnings and economies". This was acceptable to the Special Commission. Some delegations preferred the deletion of the second sentence in view of the fact that the matter addressed in it was more of a descriptive than of a recommendatory nature. Other delegations felt that the sentence summarized an extensive discussion in the Special Commission and therefore should be retained.

26. In connection with the discussion on this provisional conclusion, an interesting idea was offered that has relevance to the other provisional conclusions, namely, to include helpful subtitles in each provisional conclusion.

Provisional conclusion 17

27. This provisional conclusion lists various factors to be taken into consideration with regard to the effects of sea-bed production on the economies of DLBPS. Some delegations maintained that in view of the difficulties in quantifying

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the effects on economies the provisional conclusion should be reconsidered. The need for precision in specifying the factors was pointed to by some delegations, and, in the opinion of some delegations, the listing was incomplete.

## General remarks

28. Bearing in mind the shortage of meeting time, the consideration of the provisional conclusions one by one progressed to a significant degree. During the next session the consideration of the remaining provisional conclusions will be taken up. It is expected that at the end of the first reading revised versions of the provisional conclusions contained in conference room paper 16 would be prepared. In addition to the substantive and drafting changes, these revisions would also incorporate, as far as possible, the ideas of including a preambular paragraph in each section, combining closely related provisional conclusions, re-ordering provisional conclusions to achieve a more rational structure as well as including a subtitle in each provisional conclusion.

29. Some delegations insisted that broad indications of resource implications of implementing the provisional conclusions should also be included at the time of the revision.

## Ad Hoc Working Group

30. The Ad Hoc Working Group continued its deliberations under the Chairmanship of Mr. Luis Giotto Preval Paez (Cuba). The report of the Chairman of the Group reads as follows:

> "During the current session the work of the Group started with the consideration of the suggestions put forward by the Chairman in LOS/PCN/SCN.1/1989/CRP.18 with regard to criteria for the identification of developing land-based producer States (DLBPS) actually or likely to be affected by sea-bed production. At the conclusion of the deliberations, it appeared to me that, with two modifications and with the exception of the figures representing the dependency levels and the trigger levels, the suggestions contained in conference room paper 18 were generally acceptable.
>
> "One modification involved the use of a base period of more than one year to calculate the percentage of total export earnings of a particular DLBPS contributed by one or more of the four minerals concerned, or the volume of exports, for the purpose of characterizing the dependency levels. An average or a minimum over a two- to four-year period was mentioned. An unusual behaviour that may be encountered in a single year may be avoided through the use of a longer period. The other modification involved priority to be given to certain metals, e.g., cobalt, in connection with the dependency levels and the trigger levels.
>
> "It is my intention to issue LOS/PCN/SCN.1/1989/CRP.18/Rev.1 in incorporating the above conclusions.

"The Group then proceeded to the next step, e.g., determining what kind of remedial measure there should be for helping DLBPS affected by sea-bed production. I put forward certain suggestions that combined the three basic approaches deliberated upon extensively in Special Commission 1. When a particular DLBPS feels affected by sea-bed production, the Authority, in co-operation with the relevant international, regional and subregional organizations, will see to it that their measures are applied to that DLBPS. The Authority will then have an idea as to whether those measures are sufficient to address the problems of the DLBPS. If there are still problems remaining, the Authority will encourage the DLBPS and its traditional importing partners, who are also sea-bed miners, to enter into bilateral arrangements so as to further minimize the difficulties of DLBPS. If there are still problems remaining, the Authority could then administer assistance from its own 'compensation fund' or 'economic assistance measure', albeit after a thorough examination, as per the suggestions of the Chairman of Special Commission 1 contained in conference room papers 14 and 9.

"The combination of the three approaches appeared to be acceptable to the Group. While my suggestions above involve a step-by-step implementation, some delegations suggested that the first two steps could be taken in tandem.

"Being encouraged by the fact that the above suggestions were well received by the Group, I intend to set them down in LOS/PCN/CN.1/1989/CRP.19.

"During the next session, the Group will consider conference room paper 19 and try to work out certain details."

## Programme of work for the future

31. As mentioned above, Special Commission 1 will continue its consideration of the provisional conclusions contained in conference room paper 16, starting with provisional conclusion 18. The Secretariat is urged to prepare background papers on the five topics outlined in paragraph 4 above, especially on (a) bilateral trade, including barter trade in the four minerals concerned; (b) commodity agreements or commodity associations/study groups related to the four minerals; and (c) supplementary and updated information on existing international or multilateral economic measures, including the programmes of the Common Fund, the United Nations Industrial Development Organization (UNIDO) and the Department of Technical Co-operation for Development of the United Nations. Those topics need to be discussed extensively in the Special Commission and are directly relevant for the deliberations in the Ad Hoc Working Group. The Working Group will also continue its deliberations, starting with the consideration of conference room paper 19.

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# STATEMENT TO THE PLENARY BY THE CHAIRMAN OF SPECIAL COMMISSION 1 ON THE PROGRESS OF WORK IN THAT COMMISSION

1. At the beginning of this session, the Special Commission adopted, pursuant to the recommendation of its Bureau, the following work programme: (a) continuation of the consideration of the provisional conclusions of the past deliberations of the Special Commission, put together by the Chairman in document LOS/PCN/SCN.1/1989/CRP.16; (b) continuation of the work of the *Ad Hoc* Working Group on certain "hard core" issues, especially compensation to developing land-based producer States (DLBPS) which might be affected by future sea-bed production; and (c) consideration of the two working papers on bilateral trade in minerals and on supplementary and updated information on existing assistance measures, respectively, prepared by the Secretariat.

2. The Special Commission held 12 meetings, and its open-ended Bureau 2 meetings. The *Ad Hoc* Working Group of the Special Commission met four times.

## I. CONSIDERATION OF PROVISIONAL CONCLUSIONS

3. The Special Commission is mandated to "undertake studies on the problems which would be encountered by DLBPS likely to be most seriously affected by the production of minerals derived from the (international sea-bed) Area with a view to minimizing their difficulties and helping them to make the necessary economic adjustment, including studies on the establishment of a compensation fund, and submit recommendations to the (International Sea-Bed) Authority thereon." (Resolution I, para. 5(i)).

4. Since the beginning of its deliberations in 1984, the Special Commission discussed a number of issues related to its mandate. At the conclusion of the seventh session of the Preparatory Commission, I have assembled together 66 provisional conclusions based on these deliberations, with the understanding

that after due consideration , these can form the basis of the Special Commission's recommendations to the Authority. During the New York meeting of the Preparatory Commission, the Special Commission began the 'first reading' of these provisional conclusions. During this session, our work started with the 'first reading' of Provisional conclusion 18, and I am pleased to report that we completed the 'first reading' of all 66 provisional conclusions.

## General observations

5. In the course of the 'first reading' of the provisional conclusions, a few general trends could be noticed. First, according to some delegations, sea-bed mining would only occur in the distant future; the world economic conditions, the mineral situation, the general economic conditions of DLBPS and the conditions of their mineral sector, and consequently, whether and to what extent DLBPS would be affected by sea-bed production in the distant future, could not be predicted with any degree of accuracy at this time. Therefore, in their view, the detailed provisional conclusions might be rather premature; further information, analysis and studies in due time would be required for this purpose, and we should proceed in a step-by-step fashion. Moreover, some delegations maintained that environmental aspects of sea-bed mining were extremely unclear. Other delegations were of the view that most, if not all, provisional conclusions were of such a nature as to remain valid even in the face of uncertainties with regard to the future.

6. Secondly, in a number of cases, the provisional conclusions involve tasks for the Authority in terms of collection and processing of data and information, analysis, carrying out studies, etc. There seems to be a consensus among delegations that these tasks have financial implications, and should be carried out in the most cost-effective manner. For this purpose, the Authority should, to the fullest extent possible, utilize existing data and information, analysis and studies, that are pertinent to its work, and also, co-operate with the relevant global, interregional, regional and subregional organizations, both of intergovernmental and nongovernmental nature.

7. Thirdly, the central topic in the mandate of the Special Commission is to study how DLBPS could be assisted, if and when they are affected by future sea-bed production. An integral part of that central topic is the study on compensation to DLBPS. The Ad Hoc Working Group of the Special Commission has been charged with the task of dealing with the issue of compensation and also with the issue of effects of subsidized sea-bed mining. Therefore, according to some delegations, the consideration of certain provisional conclusions which address these issues and related matters should be deferred pending the outcomes of the deliberations in the Working Group. Other delegations felt that the consideration of these provisional conclusions could be carried out in the Special Commission itself. My personal view is that the consideration of these provisional conclusions could be pursued both in the Special Commission and its subsidiary organ, the Working Group; at a later stage, the results of the deliberations in both the forums will be merged together, and re-examined by the Special Commission.

8. Fourthly, it was recognized by delegations that the list of 66 provisional conclusions contained in CRP.16 is not exhaustive. As I mentioned in my previous statements to the plenary, the list can be supplemented by: (i) provisional conclusions resulting from the current and future deliberations in the Special Commission, including consideration of working papers to be prepared by the Secretariat; (ii) those resulting from the current and future deliberations in the Ad Hoc Working Group; and (iii) proposals and suggestions by individual delegations or groups of delegations.

9. Finally, at the editorial level, fruitful suggestions were made by delegations with regard to combining some provisional conclusions that are closely related to one another, condensing the texts of some provisional conclusions, re-arranging some provisional conclusions, and placing some provisional conclusions in proper positions so as to ensure a rational and consistent structure of the over-all list. Suggestions were also made that provisional conclusions dealing with technical matters, especially data and information, could be put in an annex rather than alongside provisional conclusions of substantive nature.

Provisional conclusion 18

10. This provisional conclusion deals with the question of the measurement of effects of sea-bed production by the Authority. Some delegations maintained that the measurement of the effects of sea-bed production by the Authority would be carried out only upon request from a DLBPS. Some delegations suggested that in order to be consistent with document LOS/PCN/SCN.1/WP.11 from which this provisional conclusion was extracted, the expression "after sea-bed production occurs" should be replaced by "only after sea-bed production occurs". They also suggested that this provisional conclusion could be inserted at the beginning of Section 3, perhaps as a chapeau.

Provisional conclusion 19

11. This provisional conclusion deals with the outline of the Authority's in-depth investigation on a case-by-case basis with regard to the effects of sea-bed production. Some delegations felt that the subject-matter of this provisional conclusion was closely related to the work of the Working Group and therefore, the consideration of the provisional conclusion should be deferred pending the outcome of the work of the Group. Some delegations maintained that there were too many elements in the outline and they had problems with that. They also questioned whether the notions of open and controlled markets in minerals addressed in elements (d) and (e) were important; in any case, bilateral trade which is supposedly a part of the controlled market had not been discussed in-depth in the Special Commission. Some delegations pointed out that elements (a) and (b) that address the matters of the resources of the Area to be exploited and volume of production from the Area depended on the availability of data, especially from the pioneer investors. Some delegations were of the view that taking account of elements (d), (e) and (f) are extremely difficult in practical terms. Some delegations reiterated their position that only effects on export earnings rather than on economies should be considered. Other delegations had no problems accepting the provisional conclusion. Drafting points were suggested by some delegations: (i) CRP.9 from which the list of elements was extracted included an additional element, e.g., "quantification of effects on export earnings", and this should be inserted;

(ii) elements (d) and (e) are closely related, and thus, can be merged; (iii) in element (f) dealing with the quantification of effects on economies, an indication can be given of priority being accorded to direct effects; and (iv) in element (g) the expression "problems associated with the effects" should be replaced by "problems directly linked with the effects."

### Provisional conclusion 20

12. This provisional conclusion addresses the question of periodic identification by the Authority, before sea-bed production occurs, of DLBPS likely to be affected by sea-bed production. Some delegations felt that the timing of such identification should not be premature and should be aligned with the realistic forecast of the commencement of commercial production from sea-bed. They also pointed out that the Authority should carry out the identification exercise only upon request from DLBPS; the Authority would need data for this purpose, and such data should be obtained in co-operation with relevant international organizations and States themselves. Some delegations felt that the identification of DLBPS 'likely to be affected' by sea-bed production might be difficult practically and technically, and thus, this provisional conclusion should be deleted. Other delegations disagreed with this view. Some delegations suggested some drafting changes: (i) the expression "before sea-bed production occurs" should be changed to "before the commencement of sea-bed production"; (ii) the expression "The Authority should attempt to identify priodically, (DLBPS likely to be affected by sea-bed production)" should be replaced by "The Authority should attempt to identify regularly, or every 3-5 years..."

### Provisional conclusions 21-29

13. These provisional conclusions deal with the criteria to be applied by the Authority in identifying DLBPS likely to be affected by sea-bed production. Some delegations pointed out that the Working Group was discussing the issue of criteria, and thus, the consideration of these provisional conclusions should be deferred until the Working Group completes its work. Some delegations felt that it would be useful if the Working Group took an over-all view of the issue rather than looking at it in a piece-meal fashion. Some delegations were of the view that the determination of the criteria involved methodological matters, and perhaps it would be wise to leave such methodological matters to the Authority; they also expressed preference for criteria based on export earnings rather than on indicators of the over-all economy of DLBPS. Other delegations preferred criteria based on both factors. Some delegations felt that the use of a formula mentioned in Provisional conclusion 26 may result in restrictive rather than helpful outcomes; therefore, for the purpose of flexibility and pragmatism, a formula should not be used. Certain drafting points were suggested by delegations: (i) in view of the close relationship among provisional conclusions 22-26, they should be combined; (ii) since there might be a number of metals to be extracted from polymetallic nodules, the specification of the four metals in Provisional conclusion 21 should be replaced by "relevant minerals".

### Provisional conclusion 30-31

14. Provisional conclusion 30 addresses the question of a preliminary identification of DLBPS likely to be affected, by the Authority immediately after it begins to function. Provisional conclusion 31 addresses the question

of a final identification of such States, at a time rather close to the time of the earliest commercial production from the sea-bed. Some delegations felt that a preliminary identification might be too early to be of any use by the time sea-bed production occurs in the distant future. Others were of the opinion that, for the purpose of keeping a watch on the situation, a preliminary identification was necessary; however, it could be done "as early as possible" or "at an appropriate time". Some delegations were of the view that identification exercises would be carried out by the Authority only upon request from DLBPS; other delegations added that the requesting DLBPS should be reasonable and justified when contacting the Authority, and the Authority should consider only concrete cases rather than hypothetical ones. Some delegations suggested that the DLBPS themselves could report to the Authority periodically.

15. In my view, for the purpose of monitoring the situation and in some cases, initiating the process that requires a long lead-time to effect necessary economic adjustment, a preliminary identification, periodical identification and a final identification close to the time of the earliest sea-bed production, are necessary. In this context, Provisional conclusions 30, 20 and 31 are related. As to the timing of such identification, we are pulled towards two opposing directions, dictated by the uncertainties with regard to sea-bed mining, on the one hand, and by the need for precision, on the other. We have to reach a balance in between the two opposites, at the same time bearing in mind that the Authority should not be over-burdened and the financial implications for the Authority should be kept to an absolute minimum.

Provisional conclusions 32-33 (Section 4)

16. These two provisional conclusions address under Section 4 the matter of determining the problems that would be encountered by DLBPS affected by sea-bed production. It was pointed out that if there were adverse effects of sea-bed production, some DLBPS might have the capacity to withstand the adverse effects and the associated problems more than others; this fact should be kept in mind in designing assistance measures. It was also suggested that both developed and developing countries already have gained and are gaining experiencing in adjusting to adverse effects caused by a number of factors, and their experience could be put to use. Some delegations suggested that in determining the problems the focus should be on the role of the Authority and that of the DLBPS in solving the problems. They also suggested that a realistic flow chart of time schedules (cause — effect — problem — solution) would be extremely useful. Certain drafting points were suggested by delegations: (i) the word "why" in Provisional conclusion 33 should be replaced by some terms which avoid value judgement; (ii) in view of the close relationship between Sections 3 and 4, these two provisional conclusions should be placed under Section 3.

Provisional conclusions 34-57 (Section 5)

17. These provisional conclusions under Section 5 deal with formulation of measures to minimize problems/difficulties of DLBPS affected by sea-bed production. Some delegations were of the opinion that some of these provisional conclusions were being dealt with in the Working Group, and the others were closely related to the above, and therefore, the consideration of these provisional conclusions should be deferred pending the outcomes of the deliberations of the Working Group. Nevertheless, these delegations and others made useful comments and suggestions on these provisional conclusions.

18. Some delegations pointed to the need to specify the length of time of the intervention of the Authority in assisting DLBPS. Others were of the view that the length of time would depend on the problem and the necessary solution, evaluated by the Authority on a case-by-case basis.

19. Some delegations suggested that there should be a 'partnership' between the Authority and the affected DLBPS in solving the problems.

20. Some delegations re-stated their position that they preferred that the Authority in co-operation with global, interregional, regional and subregional organizations, both of intergovernmental and nongovernmental nature, would utilize the existing assistance measures of the latter in solving the problems of DLBPS. Some delegations re-stated their preference for bilateral solutions, under the auspices of the Authority, between DLBPS and their traditional importing partners. Other delegations re-stated their preference for a compensation fund established by the Authority or a measure of economic adjustment assistance of the Authority's own. Nevertheless, the potential of the principle of combining all three approaches being acceptable appeared to me very high.

21. Some delegations reiterated their position that only measures of economic adjustment assistance should be considered and not compensation fund. Other delegations re-emphasized their preference for the establishment of a compensation fund.

22. With respect to Provisional conclusion 35 which addresses the issue of commodity agreements, some delegations pointed out that after the crisis encountered by the International Tin Agreement, the idea of commodity agreement was being re-assessed and its practicability and effectiveness were being questioned; in view of this the provisional conclusion might have to be revised.

23. With respect to Provisional conclusion 39 which deals with assistance to DLBPS by the Authority in co-operation with other organizations, some delegations pointed to the need for a clear idea how the co-operation would be effected and what the division of responsibility between the Authority and the relevant organizations would be. However, there seemed to be an agreement that the Authority would have the primary responsibility. Some delegations maintained that only the cases of "most seriously affected" DLBPS would be considered. Others pointed out that the Convention in various articles refer to three categories — affected, seriously affected, and most seriously affected; in their view, even in order to identify the most seriously affected DLBPS, other affected DLBPS have to be considered since there was the element of relative assessment.

24. With respect to Provisional conclusions 40-42 which deal with the existing assistance measures of various organizations, it was the view of some delegations that the assessment by the Authority of the existing measures (addressed in Provisional conclusion 40) would be an integral part of the co-operative arrangements of the Authority with the relevant organizations (addressed in Provisional conclusion 42), and the co-operative arrangements would naturally help the Authority in keeping abreast of developments in these organizations (addressed in Provisional conclusion 41). These delegations suggested that a clarification as to which organizations were relevant for the

purpose of the Authority would be helpful. They added that a considerable extent of experience and expertise existed in formulating and implementing co-operative arrangements between international and multilateral organizations and these could be put to use for the purpose of developing the general framework how the co-operative arrangements between the Authority and relevant organizations would work. They elaborated on the general framework as a sequential process: at the time sea-bed production takes place, a DLBPS which considers itself affected would request the Authority to consider its case; the Authority would determine whether the conditions call for a study of the case; if a study is called for, it would be carried out by the Economic Planning Commission (EPC) in co-operation with the relevant organizations; the EPC would make recommendations to the Council based on the study; if the recommendations address assistance to mitigate adverse effects, the Authority would make the study and the recommendations available to all relevant organizations; appropriate steps to assist the DLBPS would then be designed and implemented in a co-operative manner by the authority and the relevant organizations, the relevant organizations taking the role of executing agencies in view of their experience in implementing their own measures, which is often a complex process.

25. Some delegations pointed to the need for according priorities to the problems of most seriously affected DLBPS and correspondingly, to existing assistance measures which could address those problems most effectively. Some delegations suggested that co-operation between the Authority and the relevant organizations could not only serve the purpose of assisting DLBPS, it could also be utilized for the purpose of encouraging sea-bed mining.

26. With respect to Provisional conclusion 49 which addresses the terms and conditions of bilateral agreements between affected DLBPS and its importing partners, it was the view of some delegations that these agreements referred to import obligations of the importing partners which might not be the most suitable measure for the affected DLBPS.

27. A number of drafting points were suggested by delegations: (i) in Provisional conclusion 34, "should minimize" could be replaced by "should help minimize", (ii) in Provisional conclusion 35, "should consider preferably" could be replaced by "should encourage"; (iii) since the texts of Provisional conclusions 36-38 and 53 are taken from the Convention, these provisional conclusions could be substituted by references to the relevant articles of the Convention; (iv) in Provisional conclusion 41, "should keep abreast of any development" could be replaced by "should learn from the experience"; (v) in Provisional conclusion 43, "minimize their difficulties and help them to make the necessary economic adjustments" could be replaced by "help them to make the necessary economic adjustment and minimize their difficulties; and (vi) since Provisional conclusions 54-57 are closely linked, they could be merged together.

Provisional conclusion 58-66 (Section 6)

28. These provisional conclusions under Section 6 address the matter of data and information needed by the Authority to carry out its mandate of assisting DLBPS affected by sea-bed production. It should be pointed out that the same data and information could be utilized by the Authority for other purposes

within its purview; therefore, although these provisional conclusions address the data needs emanating from the mandate of Special Commission 1, the multi-purpose nature of the data and information should be borne in mind.

29. There was a consensus among delegations with regard to the fact that the collection, storage and processing of data and information by the Authority should be carried out in the most cost-effective manner and that for this purpose utmost use should be made of available data and information; this is reflected in Provisional conclusion 65. Thus, it was suggested that this provisional conclusion should be placed at the beginning of Section 6; co-operation with relevant organizations should also be mentioned in this provisional conclusion. The Authority may use its judgement with regard to the selection of accurate and reliable sources of data and information.

30. With respect to Provisional conclusion 59 which addresses the matter of data and information on the economic exploitability of sea-bed minerals, some delegations pointed out that such data were difficult to obtain, and whatever data existed in the public domain were too complex to interpret easily and should be viewed with extreme prudence; other delegations agreed and stated that what was needed was to keep a watch on the possibilities of exploitation, based on available data. Some delegations pointed out the usefulness of such data and the data and information on sea-bed minerals (addressed in Provisional conclusion 60) for the purpose of the nucleus Enterprise; however, they cautioned about wasting time and money on older and incomplete data, and suggested co-operation with pioneer investors, especially for data and information on prospecting and exploration. Some delegations suggested concentrating on polymetallic nodules alone, keeping in abeyance for the moment work on polymetallic sulphides, cobalt-rich manganese crusts and any other sea-bed minerals.

31. With respect to Provisional conclusion 60, some delegations suggested adding items, e.g. sediment characteristics, water depths, etc.

32. With respect to Provisional conclusion 61 which lists a number of items on which data and information are needed, some delegations pointed out the problems of data availability in respect of certain items, e.g. consumption of manganese and cobalt, production capacity, planned capacity expansion, planned new mine development, stocks etc.; in any case, these delegations maintained, care should be taken in collecting data in due time rather than prematurely, with respect to certain items, e.g., planned capacity expansion, planned new mine development, etc. These delegations suggested that the list of items could be divided in two parts - the difficult items could be put on a reserve list, and also, the Authority could adopt a flexible approach regarding different metals and different items, keeping in mind the difficulties of obtaining data and the need for data at different degrees of detail in different time frames. Other delegations preferred maintaining the list as an indicative one with the understanding that the list could be expanded as need arose.

33. With respect to Provisional conclusion 62, which address the need for data on recycling and substitution, some delegations suggested that the level of detail would depend on the time period when data would be utilized; they also suggested that in due time, close contacts could be maintained with companies, experts and specialists with a view to obtaining detailed and reliable data on recycling and substitution.

34. With regard to Provisional conclusion 63 which addresses the matter of trade agreements, commodity agreements, commodity associations and study groups, etc., some delegations pointed out that this provisional conclusion should reflect the deliberations on trade effected through agreements, carried out during this session based on the working paper prepared by the Secretariat (see paragraphs 41-44 below).

35. With regard to Provisional conclusion 64 which addresses the need for necessary data on DLBPS, some delegations pointed out the difficulties of obtaining data on some of the items listed in the provisional conclusion; they maintained that the timing when data would be needed was important, and also, since data on some of the items were available from other organizations and on some others, the co-operation of DLBPS themselves would be required, the Authority should have a priority list of items with regard to which it would contact the DLBPS. Other delegations did not think that any problem would be encountered in collecting data; a combination of sources — organizations, States, etc. — could be tapped. They also maintained that instead of restricting the list, it should be considered an indicative one with possibilities of expanding it as need arose.

36. Delegations suggested a few drafting points: (i) in Provisional conclusions 58-59, 61-63, the word "minerals" should be replaced by "minerals contained in polymetallic nodules", and preferably, by "copper, nickel, cobalt and manganese"; (ii) in Provisional conclusions 58 and 64, the term "developing land-based producer States" should be replaced by "developing land-based producer States of minerals contained in polymetallic nodules", and preferably, by "developing land-based producer States of copper, nickel, cobalt and manganese"; (iii) in Provisional conclusion 59, the term "non-metallic nodules" should be replaced by "non-metallic elements"; and (iv) in view of the duplication of some data items in Provisional conclusions 61 and 64, re-drafting and proper placement of these two provisional conclusions are necessary to avoid such duplication.

## II CONSIDERATION OF WORKING PAPERS PREPARED BY THE SECRETARIAT

37. During this session, the Special Commission had at its disposal two Working Papers prepared by the Secretariat - - "Bilateral trade in minerals" (document LOS/PCN/SCN.1/WP.13) and "Information on existing international or multilateral economic measures which could be of relevance to the work of Special Commission 1" (document LOS/PCN/SCN.1/WP.5/Add.4).

38. The interest of Special Commission 1 in studying trade effected through prior agreements is mainly because the total exports of any of the four minerals concerned - copper, nickel, cobalt and manganese - from a DLBPS may be composed of exports effected through regular market for that mineral and also exports effected through prior agreements. Thus, in order to get a full picture of the export situation of that DLBPS, the workings of the market as well as the operations of agreements need to be studied. The trade under bilateral trade agreements can be an exchange of goods and services for cash, and also an exchange of goods and services for goods and services, fully or partially. The latter falls under the generic term countertrade, barter trade being one form of countertrade. WP.13 discusses characteristics of countertrade, various forms of countertrade, and countertrade in DLBPS. It emphasizes the data problems with regard to bilateral trade agreements and

countertrade, pointing out that some of the data problems arise from the very nature of trade effected through agreements. WP.13 concludes with a suggestion that the Authority, in due time, should obtain pertinent information and data in co-operation with relevant organizations and the DLBPS and their trading partners.

39. WP.5/Add.4 provides updated and supplementary information on the measures, programmes and activities of the United Nations Department of Technical Co-operation for Development (UN/DTCD), United Nations Conference on Trade and Development (UNCTAD) and United Nations Industrial Development Organization, (UNIDO) which could be of relevance to the work of the Special Commission. These include technical co-operation activities and investment advisory services of UN/DTCD, UNCTAD's work related to International Copper Study Group, International Nickel Study Group, proposed International Manganese Study Group, to compensatory financing, to diversification, processing and marketing, and to Common Fund which started functioning from the beginning of this year, and UNIDO's assistance in the mineral industries of developing countries and its work related to restructuring of non-ferrous metals industries. With the inclusion of these measures, programmes and activities, there are now about 45 measures, programmes and activities of 36 organizations on which the Special Commission has information, contained in the five documents in the WP.5 series.

40. Delegations found the information and analysis contained in the two working papers very useful. There was a fruitful discussion based on the two papers.

## Bilateral trade

41. Delegations recognized the difficulties in obtaining data about trade effected through agreements. Some delegations were not optimistic that in the future the Authority would be successful in obtaining data in spite of the best efforts; they were also skeptical, in view of the data problems, about a comparison of trade effected through agreements, before and after sea-bed production occurs. Other delegations were of the view that when the need arises, possibilities of obtaining pertinent data and information by the Authority were high.

42. Some delegations mentioned that the working paper did not address a number of important matters: why developing countries resort to countertrade including barter trade, which trading partner benefits from such trade, whether pricing implicit in such trade is distorted, etc. Other delegations pointed out the benefits to be derived from countertrade by developing countries and stated that countertrade, in many cases, led to trade creation.

43. Some delegations pointed to an interesting possibility that some of the adverse effects of sea-bed production might be offset by better terms and conditions under countertrade.

44. With respect to how the Authority would deal with trade effected through agreements in connection with its mandate of assisting DLBPS affected by sea-bed production, the potential for reaching consensus among delegations appeared very high, along the following lines: when a DLBPS applies to the Authority, it would be determined whether trade effected through agreements was

an important factor or not; if it was, the Authority would co-operate with relevant organizations and with the DLBPS with respect to data and information on such trade, and terms and conditions, including pricing, of the agreements.

Information on existing measures

45. It was generally recognized, in the Special Commission that mere information on existing measures was not sufficient, and a need was felt that some kind of analysis and categorization in terms of usefulness of the existing measures for the purpose of the Authority while assisting DLBPS affected by sea-bed production was essential. In this context, some delegations listed UNCTAD's work, especially its work related to the Copper, Nickel and Manganese Study Groups, the Common Fund, especially its Second Account, and the technical co-operation activities and investment advisory services of UN/DTCD as the most useful.

46. Some delegations mentioned other activities of these organizations, which were not included in WP.5/ADD.4, but could be useful for the purpose of assisting DLBPS making necessary economic adjustment. For example, UN/DTCD provides technical co-operation in building and strengthening infrastructure for economic and social development, assists in development planning, operates as a catalyst in mobilizing development capital, and has experience in developing reliable statistical databases.

47. Attention of the Special commission was drawn to the work of UNCTAD on compensatory financing. The Intergovernmental Group of Experts on Compensatory Financing met three times between 1986 and 1989 and reached some substantive conclusions. Its conclusions concern the fact that virtually all developing countries have experienced sizeable shortfalls in their export earnings and that generally there was a significant difference between estimates of the size of the total commodity export earning shortfalls experienced by developing countries and the finance made available under existing compensatory financing facilities; that commodity-related shortfalls have a severe negative impact on economic and social development; and that the problem created by shortfalls was a matter of concern to the international community as a whole. Some delegations pointed out that UNCTAD's work on compensatory financing dealt mostly with agricultural commodities rather than mineral commodities.

48. Some delegations raised questions, in spite of the apparent relevance, about how and to what extent DLBPS affected by sea-bed production could be helped by the existing measures. They pointed out that each organization had its own criteria, and also depended on the decisions of its governing body, for implementing its measures, and it was not clear how those criteria and decisions would be applied in the cases of DLBPS. They pointed out the budgetary problems faced by the organizations in the UN system and also most non-UN organizations. They maintained that the terms and conditions of certain measures might be too restrictive to accommodate the concerns of DLBPS. They added that two of the four metals with which the Special Commission is concerned - - cobalt and manganese - - were not dealt with by some of the organizations. Others held an optimistic view that with focussed and detailed analysis, the relevant organizations and measures could be identified and categorized, and that co-operative arrangements between the Authority and the relevant organizations could be worked out for the purpose of assisting DLBPS.

## III. DELIBERATIONS OF THE AD HOC WORKING GROUP

49. Since the Chairman of the Ad Hoc Working Group, Mr. Luis Giotto Preval Paez (Cuba), was unable to attend this session, the Special Commission nominated Rear Admiral Syed Hamid Khalid (Pakistan) as the Acting Chairman of the Group, and Mr. Bruce A. McKean (Canada) as his alternate. The Group continued its deliberations on the matters mandated to it, focussing on the consideration of the suggestions of its Chairman with regard to the criteria for the identification of DLBPS actually or likely to be affected by sea-bed production (contained in document LOS/PCN/SCN.1/1989/CRP.18 and Add.1) and with regard to compensation for DLBPS affected by sea-bed production (contained in document LOS/PCN/SCN.1/1989/CRP.19).

50. The Acting Chairman of the Group reported to the Special Commission on the Group's work during this session; his report is contained in the Annex to this report. The Special Commission had an opportunity to carry out a brief discussion on the report of the Acting Chairman of the Group. Delegations expressed appreciation for the report, and commended the objectivity and impartiality reflected in the report. Delegations also requested the Acting Chairman of the Group to prepare, as soon as possible, CRP.18/Rev.1 and CRP.19/Rev.1 which he referred to in his report. I am confident that the Acting Chairman's report as well as the two revised documents could be used as a basis for discussion during the next session to arrive at compromise solutions.

## IV. CONCLUDING REMARKS AND PROPOSED PROGRAMME OF WORK FOR THE FUTURE

51. In conclusion, I would like to state that we made considerable progress in our work during this session. We completed the 'first reading' of all the provisional conclusions. Based on the comments and suggestions made during the course of the 'first reading', I am preparing the revised version of the provisional conclusions, which will be in the hands of the delegations very soon. On the so-called 'hard core' issues also, genuine movements can be observed that delegations are trying in the most constructive way to bridge the differences among themselves.

52. During the next session, we will start with the consideration of the revised provisional conclusions with a view to reaching consensus, which in turn, I hope, will form the basis for preparing our recommendations to the Authority. It should be recalled that based on the information on existing measures contained in WP.5, I had prepared CRP.10 specifying how DLBPS could be helped by the existing measures of various organizations; since we now have information on additional existing measures, I also intend to prepare an addendum to CRP.10 with the same objective. During the next session I would like the Special Commission to consider both CRP.10 and Add.1, and if we agree, we can include the contents of these two documents as an Annex to the provisional conclusions. The Ad Hoc Working Group will continue its work during the next session, and will build upon the constructive foundation that was laid during the present session. In addition, if and when the Secretariat prepares the working papers on the two pending topics - commodity agreements and projection - the Special Commission will also consider these working papers.

53. Finally, I would like to appeal to delegations to heed to the suggestion of the Chairman of the Preparatory Commission, contained in paragraph 40 of document LOS/PCN/L.72 and paragraph 46 of document LOS/PCN/L.77, that we should attempt to finish our work in the summer of 1991.

ANNEX

## REPORT OF THE CHAIRMAN OF THE AD HOC WORKING GROUP OF SPECIAL COMMISSION 1

1. The deliberations in the Group were of an extremely productive nature, and although we have not reached agreement on any of the issues, delegations made very constructive contributions towards narrowing the existing gaps. I would like to refer to paragraph 7 of the Chairman's report, and in this context, add that the following sum-up of the discussion in the Working Group should be read in conjunction with the relevant paragraphs of the Chairman's report.

2. Our work started with efforts to agree on the figures for dependency levels and trigger levels mentioned in paragraphs 6, 7 and 8 of CRP.18. Some delegations felt that since sea-bed production might occur only in the distant future, no figures should be specified at this time. Some delegations were of the view that specification was possible now. Some others suggested that the specification of the figures should be left to the Authority.

3. Some delegations were of the view that characterizing dependency levels in two ways - - one to see what percentage of total export earnings of a particular DLBPS is contributed by one or more of the four minerals concerned, and the other to see what the absolute value of export earnings of a particular DLBPS for one or more of the four minerals is - - might, in some cases, lead to incoherent outcomes, and therefore, on practical grounds, they preferred the former way of characterizing dependency levels. Some delegations pointed out that for some DLBPS, although in percentage terms the export earnings from one or more of the four minerals were not large, in terms of absolute value, export earnings were large enough to have an impact on the mineral sector and the economy, and thus, characterizing dependency levels by absolute value of export earnings should not be ignored.

4. In my view, based on the general trend of the discussion, a possible solution lies in the following approach: dependency levels would be characterized by percentages; however, the concerns of DLBPS which have large absolute values of export earnings from one or more of the four minerals but accounting for a relatively low percentage of total export earnings, can be accommodated through special considerations.

5. With respect to three categories of dependency levels, some delegations expressed the view that too many categories might complicate the matter, and when combined with the trigger levels, might cause further complications; they suggested reducing the number of categories. Other delegations, however, preferred retaining the three categories in order to be consistent with the various provisions of the Convention.

6. Following the general tenor of the discussion, I feel that two categories may have a high degree of acceptability. I also feel that these two categories of dependency levels expressed in terms of percentages should be specified within certain limits in order for the Authority to have a viable system.

7. With respect to the trigger level, some delegations were of the view that the figure of 5 per cent was too low; they would have preferred a figure of 15 percent, but based on the provisions of Lomé IV Convention, they suggested a figure of 10 per cent. Some delegations, on the other hand, were of the view

that the figure of 10 per cent was too high, and preferred retaining the figure of 5 per cent. Some others expressed their willingness to accept a figure between 5 and 10 per cent, while others suggested that trigger levels could also be varied as in the case of dependency levels.

8. Again, basing myself on the general trend of discussion, my assessment is that there are concerns, on the one hand, that too high a trigger level can exclude deserving DLBPS, while too low a trigger level, on the other hand, leads to concerns that the Authority will be over-burdened with applications from DLBPS and the financial implications of this will be high. However, I am confident that with further efforts we can arrive at some middle ground.

9. With respect to the issue of lowering the dependency levels and the trigger levels for least developed countries, addressed in paragraph 8 of CRP.18, there were no objections among the delegations, although no specific discussion took place about lowering the figures by 50%, as suggested in that paragraph.

10. In whatever way the dependency level is characterized - - percentage or absolute value - - CRP.18/Add.1 suggests that an average over a 3-year period before the year of sea-bed production will be used. Some delegations did not have any problems with the 3-year average, other delegations suggested the use of a 5-year average. The attention of the delegations was drawn to the fact that in the cases of DLBPS which consider themselves likely to be affected, an appropriate reference year had to be selected, since such States would apply prior to the commencement of sea-bed production.

11. With respect to the suggestions of the Chairman of the Group regarding assistance, including compensation to DLBPS affected by sea-bed production (contained in CRP.19), the significant progress that can be noted is the fact that some delegations, after an initial re-statement of their respective positions as to their preference for one approach or another, showed willingness to, and in some cases, even made suggestions so as to accommodate the concerns of the other groups. (Also refer to paragraphs 17-27 in the Chairman's report). This atmosphere of accommodation which has the potentials of bridging the gaps considerably, was acknowledged by many delegations.

12. For example, the delegations which oppose compensation fund, stated that it was the philosophy and the automaticity of compensation that was unacceptable to them; and also, in their view, compensation did not address the real issue of adjustment of the DLBPS economies; they maintained, measures aimed at economic adjustment and diversification could achieve better results than a compensation fund would. Some delegations even went as far as suggesting that the idea of compensation could be addressed through appropriate wording within the framework of economic adjustment assistance. Similarly, the group which prefers the establishment of a compensation fund, stated that what was important was that assistance would be provided and that the modalities of assistance could be worked out in an appropriate manner.

13. Again, the group which prefers bilateral arrangements between DLBPS and their traditional importing partners, stated that it was open to the idea of an overall system of assistance mechanisms containing many elements. This group was willing to put forward a proposal during the next meeting of the Preparatory Commission elaborating this idea. Some delegations, however, opposed the idea of bilateral arrangements.

14. The principle of combining various approaches was acceptable to delegations on the grounds that this would offer the advantages of selecting the appropriate solutions for various problems. There was also an agreement among many delegations that both the Authority and the affected DLBPS would have a role in selecting the appropriate solution, the Authority having the primary responsibility of assembling a package of solutions and recommending the appropriate solution to the DLBPS concerned.

15. In my view, a general trend could be noticed with respect to the fact that when the problems do arise, and the Authority is trying to look for the appropriate solutions, the DLBPS themselves would take certain initiatives with regard to corrective measures, including economic adjustment and diversification, which in turn, would facilitate the cost- effective implementation of assistance measures under the auspices of the Authority.

16. Following the request made by the Group, it is my intention to prepare revised versions of CRP.18 and 19 incorporating the comments and suggestions made by delegations and reflecting the general trends observed in the course of the deliberations.

17. I would like to conclude the report with an optimistic note, grounded in reality, that further negotiations in the future will result in satisfactory resolution of this "hard core" issue of assistance to DLBPS affected by sea-bed production.

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# STATEMENT TO THE PLENARY BY THE CHAIRMAN OF SPECIAL COMMISSION 1 ON THE PROGRESS OF WORK IN THAT COMMISSION

1. At the outset of this meeting, Special Commission 1 adopted the programme of work recommended by its Bureau: the Special Commission would concentrate on the consideration of the newly issued document LOS/PCN/SCN.1/1990/CRP.16/Rev.1 containing the revised suggestions of the Chairman with regard to the provisional conclusions of the deliberations of the Special Commission; the Ad Hoc Working Group of the Special Commission would concentrate on the consideration of the two new documents, LOS/PCN/SCN.1/1990/CRP.18/Rev.1 and CRP.19/Rev.1, containing the revised suggestions of the Chairman of the Group, dealing, respectively, with the criteria to be applied before an in-depth investigation of the problems of developing land-based producer States arising as a result of sea-bed production, would be conducted, and with assistance to developing land-based producer States likely to be or actually affected by sea-bed production; if time permitted, the Working Group would also deal with the issue of the effects of subsidized mining on developing land-based producer States.

2. The Special Commission held seven meetings, three of which were devoted fully to the deliberations of the Working Group. The Bureau of the Special Commission held two open-ended meetings.

3. At the beginning and throughout the session, delegations were reminded of the exhortations of the Chairman of the Preparatory Commission that the Special Commission provisionally conclude its work by the 1991 summer meeting of the Commission. Some delegations expressed the view that, considering the unique nature of the work of the Special Commission, which was substantive and research-intensive, it should not "rush" in formulating recommendations to the Authority, and should view the time constraint in a proper perspective. Some delegations expressed the need to continue to make progress in the fulfilment of the mandate of the Special Commission.

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## I. CONSIDERATION OF LOS/PCN/SCN.1/1990/CRP.16/Rev.1

4. Document CRP.16 had been prepared as a step towards the fulfilment of the Special Commission's ultimate mandate of submitting recommendations to the International Sea-Bed Authority on the issues related to the problems of developing land-based producer States arising as a result of sea-bed production and on assistance to those States. The document contained the provisional conclusions of the deliberations of the Special Commission. During the 1989 summer meeting and the eighth session of the Preparatory Commission the provisional conclusions in that document underwent a "first reading" by delegations. CRP.16/Rev.1 has been prepared incorporating the comments and suggestions of delegations in the course of the "first reading".

5. As compared to CRP.16, there are three areas of major changes made in CRP.16/Rev.1:

(a) Consequent to the consensus among delegations that the tasks of the Authority in relation to developing land-based producer States should be accomplished in the most cost-effective manner, at the beginning of the list of provisional conclusions an "umbrella" provision in the form of a chapeau has been included; the chapeau essentially indicates that in the compilation of any data and information and in the conduct of any studies, assessments, or investigations, the Authority should make use of available data, information, analyses, studies, forecasts, etc., and should carry out the tasks in co-operation with, and obtaining support from, relevant global, interregional, regional, subregional and national organizations, whether intergovernmental or non-governmental, public or private.

(b) Pursuant to the general trend observed during the "first reading", the Authority's tasks in relation to developing land-based producer States follow from the applications submitted to the Authority by those States and are not unrelated to the activities which the Authority is required to perform. In this context, the criteria for the identification of developing land-based producer States likely to be, or actually, affected by sea-bed production would be applied in making a determination as to whether sufficient evidence exists to carry out an in-depth investigation on the problems of the developing land-based producer States which had submitted an application; the tasks of assessment of the relationship between production from the Area and land-based production of a developing land-based producer State, quantification of effects of sea-bed production, and study of problems of a developing land-based producer State as a result of sea-bed production are elements of the in-depth investigation that would be carried out on a case-by-case basis, as and when such investigations are called for.

(c) A considerable rearrangement of the provisional conclusions has been made to reflect the sequence of application by developing land-based producer States, the consideration of such applications, and necessary and appropriate action based on such consideration. A number of drafting points suggested by delegations in the course of the "first reading" of the provisional conclusions have also been incorporated.

General discussion

6. The consideration of CRP.16/Rev.1 started with a general discussion. Delegations expressed the view that CRP.16/Rev.1 was a marked improvement over CRP.16.

7. Delegations agreed that the provisional conclusions contained in CRP.16/Rev.1, combined with the suggestions contained in CRP.18/Rev.1 and CRP.19/Rev.1, formed a package. At a later point, efforts should be made to join the various pieces of the package in a coherent fashion.

8. In view of the interrelationships of the contents of CRP.16/Rev.1, CRP.18/Rev.1, and CRP.19/Rev.1, some delegations expressed their difficulties in taking a position on the contents of those documents because they could not be made available to them well in advance for the purpose of study and consultations among the relevant parties. Those delegations would like to review the package as a whole, in due time, and thus made preliminary remarks on CRP.16/Rev.1. In their view, one of the tasks of the Authority was the examination of the submissions presented by developing land-based producer States which were either likely to suffer adverse effects on their export earnings due to sea-bed mining or were actually suffering from those effects. Another task of the Authority, in their view, was to identify existing sources of data concerning the market in the four metals derived from the nodules - copper, nickel, cobalt and manganese - and, when relevant data were not otherwise available, to undertake studies to the extent necessary to enable it to complete its task of identifying developing land-based producer States affected or likely to be affected. They maintained that, if it was proved on the basis of an evaluation of the situation, including a market assessment, that a developing land-based producer State was affected or likely to be affected by sea-bed mining, some action should be taken to assist it. They also expressed their views on what kind of action should be taken. Those views are reflected in the report of the Chairman of the Working Group in connection with the discussion on CRP.19/Rev.1.

9. Some delegations were of the view that the crucial issue was that of assistance to developing land-based producer States, on which the Working Group was deliberating. Another crucial issue was that of isolating the effects of sea-bed mining from those of other factors. They maintained that before they could take a position on CRP.16/Rev.1, they wished to review how these crucial issues were being dealt with, and this would require extensive consultations with domestic agencies.

10. Some delegations emphasized the need for the Authority to carry out its functions in co-operation with relevant organizations. They also emphasized the imperative of cost-effectiveness.

11. Other delegations expressed the view that the provisional conclusions contained in CRP.16/Rev.1 were acceptable to them, in general. A closer examination, conclusion by conclusion, would be required, and the parts of the package contained in CRP.18/Rev.1 and CRP.19/Rev.1 needed to be reviewed; however, in their view all the parts of the package were at the disposal of delegations, and the work of the Special Commission could proceed in a productive manner.

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Consideration of individual provisional conclusions

12. The general discussion on CRP.16/Rev.1 was followed by a consideration of the document, provisional conclusion by provisional conclusion. The document contains 17 provisional conclusions preceded by a *chapeau*, annex I entitled "Background requirements: necessary data and information" presenting six provisional conclusions, and annex II which does not yet exist, but will be produced after the consideration of document LOS/PCN/SCN.1/CRP.10/Add.1 (to be issued before the next session), providing a list of organizations and their measures/programmes/ activities of relevance to developing land-based producer States. A preliminary consideration of all the provisional conclusions in the main body of the document except the ones which are directly related to the issues under consideration in the Working Group, has been completed.

Chapeau

13. The *chapeau* deals with the issue of the most cost-effective manner in which the Authority should carry out the tasks involving data and analysis, referred to in paragraph 5 (a) above. At the preliminary level, delegations did not have any problems with the *chapeau*; some delegations, however, emphasized the need to examine it more thoroughly, and added that the identification of existing sources of data was one of the tasks of the Authority.

Provisional conclusion 1

14. This provisional conclusion identifies the minerals of the Area and the metals contained in those minerals with which the Authority would be concerned. Delegations had no problems with it, at the preliminary level. A drafting point was raised that the reference to R2/1(d) should be related to the Conference rather than the Convention.

Provisional conclusion 2

15. This provisional conclusion addresses the issue of forecast of mineral situation with or without sea-bed production. Some delegations suggested that the forecast should be carried out when a plan of work for exploitation was submitted to the Authority. Some delegations suggested that the timing of the forecast should be tied to applications by developing land-based producer States.

Provisional conclusion 3

16. This provisional conclusion deals with application by developing land-based producer States likely to suffer adverse effects from sea-bed production. With regard to paragraph 3 (a), some delegations suggested that applications by developing land-based producer States should be submitted to the Authority rather than the Economic Planning Commission since the latter is a subsidiary body of the Authority. Some delegations were of the view that paragraph 3 (a) imposed too great a burden on the developing land-based producer State applicant; they also suggested that the phrase "four metals" should be replaced by "any metals or non-metallics that may be deemed exploitable in the future". Some delegations

suggested that the wording of paragraph 3 (b) needed to be tightened, as there seemed to be some redundancy in the current wording; some delegations suggested that the drafting should be done in such a manner as to provide for reapplication by developing land-based producer States; some delegations were of the view that applications by developing land-based producer States should not be submitted earlier than the time of issuance of the first production authorizations. Regarding paragraph 3 (d), some delegations suggested that in undertaking the in-depth investigation the Authority should act as a catalyst and co-operate with relevant organizations, and that the issue needed to be further examined; some delegations expressed difficulties in accepting the idea of deferment of the matter to other organizations.

### Provisional conclusion 4

17. This provisional conclusion deals with applications by developing land-based producer States which consider themselves affected by sea-bed production. With regard to paragraph 4 (a) (ii), some delegations expressed reservations about the inclusion of effects on the economy of developing land-based producer States. As to paragraph 4 (c), similar observations were made to those in connection with paragraph 3 (d).

### Provisional conclusion 5

18. This provisional conclusion deals with the criteria for undertaking in-depth investigation of the cases of developing land-based producer States in question, with a view to determining appropriate measures. Some delegations were of the view that the provisional conclusion fell within the mandate of the Working Group; some others agreed, and suggested drafting changes that would facilitate insertion of the outcomes of the work of the Group.

### Provisional conclusion 6

19. This provisional conclusion provides an outline of the in-depth investigation to be carried out following a determination that such an investigation is called for in the case of a developing land-based producer State applicant. Some delegations reserved their right to review the provisional conclusion in due time. Some delegations expressed concern about the extent of functions being imposed on the Authority by the provisional conclusion, particularly since there was no clear idea about the initial size of the Authority. Some delegations were of the view that it was worthwhile to indicate the full range of functions pertaining to the full-fledged Authority.

### Provisional conclusion 7

20. This provisional conclusion provides certain details with regard to the assessment of the relationship between production from the Area and existing land-based production, which is an element of the in-depth investigation. Some delegations expressed reservations about the provisional conclusion, pending their examination of the *chapeau*; they also stated that the issue of timing, addressed in paragraph 7 (b), needed further examination. Some delegations questioned the

feasibility of determining the extent to which the developing land-based producer States in question carried out trade in the "controlled market"; they also felt that the relationship between the three periods mentioned in paragraph 7 (b) and the implementation of assistance measures needed to be examined. A drafting suggestion was made with regard to paragraph 7 (b): for the sake of consistency, the phrase "more than 10 years" should be inserted after "long-term basis".

Provisional conclusion 8

21. This provisional conclusion provides certain details as to the potential or actual effects of sea-bed production that are to be quantified in the course of the in-depth investigation. Some delegations felt that this provisional conclusion implied continuous studies of the effects, while in their view effects were to be studied only in connection with in-depth investigations following applications by developing land-based producer States; they also pointed to the need to examine further the relationship of the provisional conclusion to the *chapeau*. Some delegations suggested that the phrase "potential or actual effects" in paragraph 8 (a) was unclear and should be replaced simply by "effects". Some delegations questioned the appropriateness of mentioning "production from maritime zones under national jurisdiction" in paragraph 8 (c) (ii); some delegations felt that such production should be considered as land-based production. In the view of some delegations, paragraph 8 (c) (ii) had important financial implications which needed to be examined; they also stated that the isolation of the effects of sea-bed production from those of other factors, addressed in paragraph 8 (c) (iii), was one of the most difficult issues and that it called for universal understanding among the participants. Some delegations suggested that the phrase "four metals" in paragraph 8 (c) (iii) should be replaced by "affected metals" for the sake of uniformity.

Provisional conclusion 9

22. This provisional conclusion provides certain detail with regard to the determination of problems of developing land-based producer States linked with effects of sea-bed production, which is an element in the in-depth investigation. Some delegations felt that the timing and the purpose of such determination, to be linked with the application by developing land-based producer States, needed to be clarified; they also expressed the wish to examine the relationship of this provisional conclusion to the *chapeau*.

Provisional conclusions 10-17

23. These provisional conclusions deal with the determination of measures to assist developing land-based producer States. Delegations felt that they were closely linked with the deliberations of the Working Group, and, therefore, the consideration of these provisional conclusions should be deferred, pending the outcomes of the deliberations in the Group.

## II. DELIBERATIONS IN THE WORKING GROUP

24. The Ad Hoc Working Group of Special Commission 1 continued its deliberations on the so-called "hard core" issues, under the Chairmanship of Mr. Luis Giotto Preval (Cuba). There was a general feeling in the Special Commission that at the current stage of its work, more time and effort needed to be expended in the Working Group, and the allocation of time between the Special Commission and Working Group was done accordingly. The report of the Chairman of the Group is contained in the annex to the present report.

25. With regard to the current status of the work of the Special Commission, from now on, intensive efforts need to be undertaken to resolve the "hard core" issues and other unresolved issues in order to "wrap up" its work in due time. The Special Commission should give thought to the requisite allocation of time to, and the form of, such efforts.

## III. PROGRAMME OF WORK FOR THE NEXT SESSION

26. With the understanding that delegations would have had ample opportunity to view the package of CRP.16/Rev.1, CRP.18/Rev.1 and CRP.19/Rev.1 as a whole, by the next session, the Special Commission should plan to continue its consideration of CRP.16/Rev.1. The Working Group will continue its deliberations with a view to fulfilling its mandate. Intensive negotiations will be undertaken pursuant to the ideas contained in paragraph 25 above.

27. The Chairman of Special Commission 1 will ensure that document CRP.10/Add.1, referred to in paragraph 12 above, would be issued before the next session in order to facilitate the completion of annex II of CRP.16/Rev.1 (see para. 12 above). Delegations may recall that there are two pending topics, commodity agreements and projections, on which discussion needs to be carried out. The Special Commission would like to request, through the Preparatory Commission, the Secretariat to prepare background paper on at least one of the two topics, preferably commodity agreements, for the next session. The consideration of the background paper, when available, will also be in the agenda of the Special Commission for the next session.

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## Annex

## REPORT OF THE CHAIRMAN OF THE AD HOC WORKING GROUP OF SPECIAL COMMISSION 1

### Consideration of LOS/PCN/SCN.1/1990/CRP.18/Rev.1

1. The Group's work started with the consideration of document LOS/PCN/SCN.1/1990/CRP.18/Rev.1. It was the understanding of the Group that when a developing land-based producer State which considers itself likely to suffer adverse effects from, or which considers itself affected by, sea-bed production, submitted an application to the Authority, the Authority would make a determination as to whether sufficient evidence existed to carry out an in-depth investigation; such determination would be made by applying certain criteria expressed in terms of dependency thresholds and trigger thresholds. The revised suggestions of the Chairman of the Group regarding these criteria are contained in document CRP.18/Rev.1.

2. That document attempted to achieve a reconciliation of the views expressed by delegations during the consideration of the suggestions contained in two earlier documents, LOS/PCN/SCN.1/1989/CRP.18 and Add.1. Four important changes have been made in CRP.18/Rev.1:

(a) In response to views expressed by some delegations that three levels of dependency thresholds might cause unnecessary complications, only two levels have been included;

(b) In an effort to reach a compromise between the preference of some delegations that dependency thresholds should be characterized solely by percentages of total export earnings of a developing land-based producer State contributed by one or more of the four minerals concerned, and the position of some other delegations, that dependency thresholds should also be characterized by absolute value of export earnings of a developing land-based producer State from one or more of the four minerals concerned, no specified figures for absolute value of export earnings have been included, but provision is made for consideration of those developing land-based producer States, the absolute value of the export earnings of which from one or more of the four minerals, although not reaching the thresholds characterized by percentages, are large enough to have an impact on their mineral sector and economy;

(c) Figures for dependency thresholds and trigger thresholds and lowered figures for such thresholds in the cases of least developed countries have been changed with a view to facilitating agreement among delegations;

(d) The issue of categorizing developing land-based producer States as affected, seriously affected or most seriously affected by sea-bed production has not been addressed because such categorization could be made only after the in-depth investigations, and not before.

3. During the deliberations, some delegations were of the view that the matters addressed in CRP.18/Rev.1 were highly complex and that sufficient time was needed to study the newly issued document and to consult with domestic agencies; in any case, there was a need for continued research and discussion before compromises could be achieved and any universality of understanding could be ensured. In their view, the concepts of dependency thresholds and trigger thresholds had been introduced in the deliberations of the Special Commission relatively recently, and there was a need for further exchanges of ideas among delegations about those concepts. They also contended that it was difficult to understand what the figures for dependency thresholds and trigger thresholds really meant. They further questioned the basis on which the figures had been specified. Some delegations explained that the concepts and figures might have been based on the System for Stabilizing Export Earnings in the Mining Sector (SYSMIN) of the European Economic Community (EEC) - African, Caribbean and Pacific States (ACP) as a reference, although the figures in SYSMIN were the result of negotiations among the parties concerned. Some delegations preferred to leave the figures for the Authority to specify. Other delegations did not have any problems with the concepts or the figures.

4. Some delegations had reservations regarding the consideration of applications by developing land-based producer States made at an early stage before sea-bed production became a reality. They preferred applications not to be submitted before the issuance of the first production authorizations. Some delegations felt that the trigger thresholds, as specified in paragraph 3 (b), for developing land-based producer States applying before the commencement of sea-bed production, were difficult to apply and should be deleted.

5. Some delegations still objected to the characterization of dependency thresholds by absolute value of export earnings. Other delegations pointed to the need for consideration of the cases of the developing land-based producer States referred to in paragraph 2 (c). In any event, delegations felt that the paragraph needed to be redrafted to eliminate vagueness and possibilities of subjective interpretation. Some delegations made specific proposals about quantifiable thresholds and objective bases for categorization of the developing land-based producer States in this context. Some delegations were of the view that these proposals would entail substantive and technical problems. It appeared to the Chairman of the Group, however, that there was a general trend to accommodate the concerns of the developing land-based producer States which might encounter special difficulties, although their export earnings from one or more of the four minerals concerned might not exceed the specified percentages of their total export earnings.

6. Some delegations objected to the priority to be given to cobalt producers, addressed in paragraph 5 of the document. In the judgement of the Chairman of the Group, based on the deliberations during the Conference, the potential effects of sea-bed production on the cobalt market may justify giving priority to the applicants which are cobalt producers, although the wording in paragraph 5 has to be made clearer that such priority is only in terms of conducting the in-depth investigation.

7. A few drafting suggestions were made by delegations:

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Paragraphs 2 (a) and 2 (b). Some delegations suggested that the phrase "before sea-bed production occurs" should be replaced by "before and during sea-bed production occurs";

Paragraph 2 (d). It was pointed out that this was a long and cumbersome subparagraph and should be broken up into two parts. Also, the "reference" period over which the 3-year average would be taken needed to be clarified, preferably in relation to the year of application.

8. Further work. The exchange of views on CRP.18/Rev.1 was very fruitful and pointed to certain general trends which could be pursued further with a view to reaching agreement among delegations. The Chairman of the Ad Hoc Working Group intends to do so by issuing a second revision of CRP.18 before the next session of the Preparatory Commission. The second revision would be along the following lines:

(a) Drafting changes in paragraphs 2 (a), 2 (b) and 2 (d), as suggested by delegations, could be incorporated;

(b) Paragraph 2 (c) could be redrafted to capture the idea that the cases of developing land-based producer States encountering special problems would be addressed appropriately;

(c) Paragraph 3 (b) could be deleted; and

(d) Paragraph 5 could be redrafted to reflect the idea that the "priority" is only in terms of conducting in-depth investigations.

Consideration of LOS/PCN/SCN.1/1990/CRP.19/Rev.1

9. This document attempts to arrive at a compromise among the divergent views of delegations with regard to assistance to developing land-based producer States likely to be or actually affected by sea-bed production, expressed in the course of the deliberations on the suggestions contained in an earlier document, CRP.19. As compared to CRP.19, the revision includes three fundamental changes, which are interrelated:

(a) The objective of assistance to developing land-based producer States would be to address, in the most effective manner, those States' problems, if any, arising as a result of sea-bed production; this objective can be achieved through appropriate measures of economic adjustment assistance which would offset or compensate the adverse effects of sea-bed production. This idea has been incorporated in CRP.19/Rev.1;

(b) There are three ways developing land-based producer States could be assisted, as referred to in provisional conclusions 12, 13 and 14, respectively, contained in CRP.16/Rev.1: (i) through the existing economic measures of global, interregional, regional and subregional organizations; (ii) through bilateral arrangements between developing land-based producer States and their traditional importing partners which would obtain the minerals from sea-bed production; and (iii) through the Authority's own measures. The process through which the most effective "mix" of these three categories of assistance could be arrived at would be collaboration and mutual support among the Authority, the organizations involved and the trading partners involved. This process has been clearly specified in CRP.19/Rev.1;

(c) The proportion in which each of the three categories would be included in the "mix" appropriate for each case of applicant would be a logical outcome of the process, and this fact is implied in CRP.19/Rev.1.

10. Some delegations reiterated their position that, in view of the fact that the feasibility of sea-bed mining had not yet been determined, the issue of assistance to developing land-based producer States was premature. They also had problems with the wording in many places in the document. Some delegations restated their position that they did not believe compensation would be the most appropriate way of resolving the problems of developing land-based producer States and that the Authority would have sufficient resources to implement economic adjustment measures directly. In their view, the Authority should act mainly as a catalyst, that is, it should promote the appropriate intervention by other organizations. Measures of economic adjustment assistance in favour of affected developing land-based producer States should be implemented essentially by the relevant global, interregional, regional or subregional organizations, in collaboration with the Authority. Some delegations re-emphasized their preference that the Authority should have its own measures, in particular, in the form of a compensation fund. Other delegations supported the suggestions contained in CRP.19/Rev.1.

11. Some delegations suggested that the Authority's own measures should be directly mentioned; otherwise, the Authority might be curtailed from taking measures which are specifically provided for in the Convention. They also pointed out that the wording in paragraph 2 was different from that in the Convention and should be aligned with the Convention. Some delegations questioned the practicability of the Authority's own measures in view of the constraints in resources and expertise it would face, especially in the initial period, and very likely in later periods also. In their view, the only effective way of addressing the problems of developing land-based producer States was economic adjustment assistance and such assistance could require enormous resources. They contended that the Authority could at a later time be in a position to contribute financially to a certain extent, and at that time it could be an active partner along with other organizations in providing assistance to developing land-based producer States.

12. Some delegations suggested that the phrase "serious adverse effects" should be replaced by "adverse effects". Others conceded that the wording in the Convention in this regard did differ in various articles.

13. Future work. It is the assessment of the Chairman that a productive negotiating atmosphere is prevailing in the Group, and this atmosphere should be put to use in furthering the objective of achieving agreement among delegations. To this end, he intends to issue a second revision of CRP.19 before the next session, reflecting the general trends observed during the deliberations. Such a revision would be along the following lines:

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(a) The wording in paragraph 2 could be made consistent with that in the Convention;

(b) Greater clarity could be given in paragraph 3 to the references to the three ways of assisting developing land-based producer States and to the fact that the appropriate "mix" of the three in each case would result from the collaborative effort among the Authority, relevant organizations and relevant trading partners;

(c) The Authority's own measures could be mentioned directly. The issue of whether measures would be taken by the Authority, and if so, which ones, could be left to the Authority itself to decide. In this context, the Chairman would urge delegations to examine thoroughly the extent of resource constraints of the Authority, the possibilities of mobilizing resources in spite of the constraints and the most effective way the resources could be utilized, however limited they may be.

## Effects of subsidized sea-bed mining on developing land-based producer States

14. At the Group's last meeting, it had an opportunity to initiate discussion on this issue. The Special Commission has at its disposal a proposal by the delegation of Australia on the issue (LOS/PCN/SCN.1/1989/CRP.15).

15. Some delegations pointed out that issues of subsidy directly relevant to the Group's work were being negotiated at the moment in the Uruguay Round of Negotiations under the auspices of the General Agreement on Tariffs and Trade (GATT). These negotiations will conclude by the end of the year, and those delegations maintained that the Group should await the outcomes of the Uruguay Round. Some delegations felt that the provisions contained in CRP.15 reflected reasonable principles, such as the orderly and economically rational manner of resource development and the exploitation of resources to be carried out on an economically viable basis and in accordance with sound commercial principles, and in their view acceptance of these principles should not pose any problem for delegations.

16. In the view of the Chairman, the Ad Hoc Working Group needs to continue its work on this issue during the next session. At that time, it would also have an opportunity to study the outcomes of the Uruguay Round of Negotiations.

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# STATEMENT TO THE PLENARY BY THE CHAIRMAN OF SPECIAL COMMISSION 1 ON THE PROGRESS OF WORK IN THAT COMMISSION

1. During this session Special Commission 1 continued its consideration of the provisional conclusions of the deliberations of Special Commission 1 which can form the basis of its recommendations to the International Sea-Bed Authority (revised suggestions by the Chairman contained in document LOS/PCN/SCN.1/1990/CRP.16/Rev.1). Two groups of delegations, the European Economic Community (EEC) and its Member States and the Group of 77, introduced amendments to the provisional conclusions, contained in documents LOS/PCN/SCN.1/1991/CRP.20/Rev.1 and CRP.21, respectively; the Special Commission also deliberated on these documents in the context of the deliberations on the provisional conclusions. Since there were divergent views among various groups of delegations with regard to the provisional conclusions, in order to facilitate negotiations the Special Commission formed a small negotiating group to be presided over by the Chairman himself; this negotiating group will commence its work during the summer meeting in New York. The work of the Ad Hoc Working Group of the Special Commission on "hard-core issues" also continued during this session. At this session, the Special Commission also had the opportunity to discuss a paper submitted by the Chairman containing his preliminary summary of points relevant to the work of Special Commission 1, culled from the information on the existing measures/programmes/activities of various organizations (document LOS/PCN/SCN.1/1991/CRP.10/Add.1).

## Meeting schedule

2. There were 12 meetings of the Special Commission scheduled during the session, two of which were fully devoted to the Ad Hoc Working Group, and the meeting time for one was fully allocated to the Contact Group of the Group of 77 on Special Commission 1 Matters. The Special Commission also shared meeting time with the Ad Hoc Group for one additional meeting, and with the Contact Group of the Group of 77 for two additional meetings. The Bureau of the Special Commission had three open-ended meetings.

Work programme

3. At the outset of this session the Special Commission adopted a programme of work as recommended by the Bureau: consideration of CRP.16/Rev.1 along with consideration of other documents dealing with amendments to provisional conclusions, e.g. CRP.20/Rev.1 and CRP.21; consideration of CRP.10/Add.1; and continuation of the deliberations of the Ad Hoc Working Group. The Special Commission carried out its work according to the programme, and took significant decisions with regard to further work in the future.

## I. CONSIDERATION OF CRP.16/REV.1, CRP.20/REV.1 AND CRP.21

4. The Special Commission had a "first reading" of the provisional conclusions contained in CRP.16/Rev.1 during the New York meeting of last summer, and proceeded to have further deliberations on the provisional conclusions during this session. The delegations of the EEC and its Member States introduced a paper, CRP.20, containing suggested amendments to the chapeau and provisional conclusions 1-4 of document CRP.16/Rev.1. While introducing CRP.20 the delegation of EEC made a statement in which, inter alia, amendments were suggested with regard to the other provisional conclusions contained in CRP.16/Rev.1. These latter amendments, combined with the former, were issued in document CRP.20/Rev.1. The delegations of the States belonging to the Group of 77 introduced document CRP.21, containing their amendments to the provisional conclusions and explaining their position. Thus, the Special Commission discussed the contents of all three documents in a combined manner.

5. In my view, the thrust of the position of the EEC and its Member States is that assistance to be provided to developing land-based producer States (DLBPS) actually suffering or likely to suffer adverse effects from sea-bed production would take the form of economic adjustment assistance alone, and that the requisite measures would be decided upon and implemented by international and/or multilateral organizations, with the Authority having a catalyst's role. The thrust of the position of the Group of 77, in my view, is that the creation of a compensation fund by the Authority for the purpose of assisting DLBPS is a valid and specified option the modalities of which should be discussed and analyzed, and that whatever measures(s) of assistance be considered -- Authority's own measure of compensation or economic adjustment, bilateral measures, existing economic measures of international or multilateral organizations, commodity agreements, anti-subsidy measures, or any combination thereof -- the primary responsibility of deciding upon and implementing the requisite measure(s) lies in the Authority as the 'custodian' of the common heritage of mankind under the Convention.

CRP.20 and CRP.20/Rev.1

6. While introducing CRP.20 the delegation of EEC mentioned that the amendments to provisional conclusions were based on three general principles regarding (a) the role of the Authority in the area of assistance to DLBPS which are either likely to suffer adverse effects on their export earnings due

to sea-bed mining or are actually suffering from these effects, (b) the tasks of the Authority in this area, and (c) the procedure to be followed in the consideration of an application by a DLBPS.

7. On the role of the Authority, the EEC stated that the overall concern of the EEC and its Member States was to achieve a cost effective use of resources and that the Authority should, therefore, not duplicate the work of international or multilateral organizations which already provide assistance to developing States in the framework of their respective programmes. In their view, the Authority should act as a catalyst and bring together the relevant organizations.

8. With regard to the tasks of the Authority, the EEC and its Member States contended, the Authority should examine the applications presented by DLBPS and it should also identify existing data concerning the market of the four metals - copper, nickel, cobalt and manganese - derived from the nodules, in order to complete its task of identifying DLBPS affected or likely to be affected by sea-bed production.

9. As to the procedure to be followed in the consideration of an application by a DLBPS, the delegation of the EEC elaborated upon several points: if a DLBPS is of the opinion that it is likely to suffer from serious adverse effects on its export earnings or on its economy due to future sea-bed mining it should present a documented application for assistance including all available data to the Secretary-General (S-G) of the Authority; the S-G of the Authority should determine, using the specified criteria whether sufficient evidence exists to justify a study and consequently inform the Economic Planning Commission (EPC); if the S-G determines that a study is justified, he/she should request international and/or multilateral organizations already actively involved in assistance programmes in developing States to produce a comprehensive report on the likely impact of deep sea-bed mining on the economy of the DLBPS taking into account the situation of the world mineral markets; the relevant international organizations should study the measures necessary to adjust the economic structure of the DLBPS to the changed circumstances as well as the assistance to be provided; the S-G should then inform the Council and the EPC on the results of these studies undertaken by the organizations involved. The delegation of the EEC also added that no such application from a DLBPS should be submitted before a first plan of work for exploitation was officially presented.

10. With regard to the chapeau the amendments of EEC and its Member States basically involved the deletion of the references to the texts of the Convention or of Resolution I, dealing with adverse effects on the economies of DLBPS or on their export earnings resulting from a reduction in the price of an affected mineral or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area.

11. On provisional conclusion 1 dealing with 'Minerals of the Area, and metals contained in those minerals', the amendments by the EEC and its Member States involved the deletion of the term "non-metallic elements".

12. With regard to provisional conclusion 2 dealing with 'Forecast of the mineral situation with or without sea-bed production', the EEC was of the opinion that the Authority should not carry out any forecast of its own but should only collect available data and information on future sea-bed mining activities in the Area as well as existing forecasts.

13. Provisional conclusions 3-4 deal with 'Application by DLBPS likely to suffer adverse effects from sea-bed production' and by DLBPS 'which considered themselves affected by sea-bed production', respectively. The three general principles mentioned above on the role of the Authority, its tasks, and the procedure to be followed in the consideration of application, were reflected in the amendments proposed by the EEC and its Member States to these two provisional conclusions. The basic idea of the amendments was that the studies to be undertaken, the necessary measures to be taken and the assistance to be provided, were to be done by the relevant international and/or multilateral organizations. However, the EEC added, if the Authority was in a position to contribute to the financing of the measures agreed upon by the organizations involved, the S-G of the Authority shall submit relevant proposals to the EPC and the Finance Committee; these latter organizations shall submit their recommendations to the Council for final decision. In this connection, the EEC was of the opinion that various sources of revenue for the Authority were specified in the Convention; if sufficient funds should be available, there was no objection of the EEC to the use of these by the Authority to contribute, on a co-financing basis, to the economic adjustment or technical assistance programmes of the appropriate international organizations in affected DLBPS.

14. On provisional conclusion 5 dealing with 'Criteria for undertaking in-depth investigation with a view to determining appropriate measures', the EEC expressed its general reservations pending the results of the work of the Ad Hoc Working Group.

15. As to provisional conclusion 6 dealing with the 'In-depth investigation', in the view of the EEC, certain aspects addressed in this provisional conclusion could be included in a technical annex which would contain a list of data that could be collected and studies that could be carried out by the international organizations involved. Provisional conclusion 8 deals with 'Potential or actual effects of sea-bed production'. The EEC had a similar view with respect to the contents of this provisional conclusion.

16. Provisional conclusion 7 deals with 'Assessment of relationship between production from the Area and existing land-based production'. In the view of the EEC, making general assessment would not serve any useful purpose as no standard of comparison would exist at least before the time of the first submission of a plan of work for exploitation, and therefore, the EEC suggested the deletion of this provisional conclusion.

17. Provisional conclusion 9 deals with 'Determination of problems linked with effects of sea-bed production'. The EEC was of the opinion that general studies as provided for in this provisional conclusion would not be of use when dealing with the problems of individual affected States, and that studies should be undertaken only when an application had been filed. Thus, in the view of the EEC, this provisional conclusion should be deleted.

18. Provisional conclusion 10 deals with 'Assistance to DLBPS likely to suffer adverse effects from sea-bed production', provisional conclusion 12 deals with 'Existing economic measures, and provisional conclusion 15 addresses certain procedural matters. In the view of the EEC, the matters addressed in these three provisional conclusions were already dealt with in provisional conclusions 3 and 4 and therefore these provisional conclusions should be deleted.

19. Provisional conclusion 11 deals with 'Assistance to DLBPS which suffer serious adverse effects from sea-bed production', and provisional conclusion 14 deals with 'Authority's own measures'. The EEC and its Member States opposed the setting up of a compensation fund since, as they maintained, they did not believe that compensation as such would be the most appropriate and effective way of solving any problems that might arise. In their view, the payment of compensation would only yield temporary relief for affected DLBPS and would as a result tend to the preservation of economic structures which no longer corresponded to the economic realities. Instead, they maintained, assistance measures should aim at adjustment of the economic structures of the affected DLBPS to the changed circumstances by promoting diversification and growth in other sectors leading to an increase of exports or a replacement of imports. Thus, the EEC suggested, these two provisional conclusions should be deleted.

20. Provisional conclusion 13 deals with 'Bilateral measures'. The EEC and its Member States noted that they did not favour the role of the Authority with respect to bilateral agreements as envisaged in this provisional conclusion because, in their view, the participation of the Authority in such agreements would tend to distort competition. They therefore suggested deletion of this provisional conclusion.

21. Provisional conclusion 16 addressed the issue of effects of subsidized sea-bed mining. The EEC and its Member States expressed their general reservation with regard to this provisional conclusion pending the completion of negotiations on the matter of subsidies in the Uruguay Round.

22. Provisional conclusion 17 addressed the issue of commodity agreements. According to the EEC and its Member States, commodity agreements on minerals were not an appropriate means for solving structural problems of producing countries, and they could at best smoothen short term market fluctuations, and not change the long term market trends. Thus, the EEC and its Member States suggested deletion of this provisional conclusion.

23. Annex I to the provisional conclusions deals with 'Background requirements: necessary data and information'. The EEC and its Member States agreed, in essence, about the development and maintenance of cost effective data bases by the Authority, and the subject areas for data and information. However, the details under each area, in their view, were either not necessary for implementation of the tasks of the Authority or would be available in connection with the applications to be submitted by the DLBPS. Thus, they would suggest deletion of these detailed provisions under this annex.

CRP.21

24. The position of the Group of 77 with regard to the provisional conclusions contained in CRP16/Rev.1, and suggested amendments in specific cases, are presented in CRP.21. This document was introduced by the delegate of Uganda in his capacity as the Co-ordinator of the Contact Group of the Group of 77 on Special Commission 1 matters.

25. According to the Group of 77, it believes that contrary to what the EEC seems to imply, the Convention is not ambiguous and open to different interpretations on the question of setting up a compensation fund, and that the wording in the Convention is very precise and exact. Therefore, in their view, the substance was not subject to discussion and negotiation but the methodology of setting up a system of compensation and how it would operate was what should be discussed and analyzed.

26. According to the Group, the various results EEC indicated would follow from economic adjustments (such as promoting diversification and growth in other sectors, increase of exports or replacement of imports) were all only possible with specific economic programmes in the affected countries and could only be carried out with the availability of funds; such resources were best pooled in a fund controlled by the Authority out of which specific economic programmes would be undertaken in DLBPS.

27. Because the law and principles were clear on the issue, the Group emphasized that whichever variety of economic relief measure or measures were to be administered or implemented by the Authority, the goal must be to minimize the difficulties of the DLBPS and assist them in their economic adjustment. According to the Group, the creation of a compensation fund was one valid and specified option or strategy envisaged in the Convention that the Authority could adopt in order to provide itself with a reliable system of compensation which would make available the necessary financial resources to meet the costs of the economic relief measure or measures.

28. The sources of funds for the Compensation Fund, according to the Group, could be : (i) a percentage of the revenue from the profits of the Enterprise to be allocated to resources of the Compensation Fund on a regular basis; (ii) a percentage of the revenue from the profits of other operators in the Area; and (iii) voluntary contributions made by Member States and other entities.

29. The utilization of the funds from the Compensation Fund, according to the Group, would be directed at projects and programmes of the affected DLBPS to bring about economic adjustment. Such projects, they stated, should include: (i) provision of technical assistance; (ii) diversification of economies; (iii) establishment of national and regional processing plants; and (iv) provision of soft loans or grants.

30. The Group stressed that it did not oppose the idea and concept of economic adjustment, but it believed that for such economic adjustment to be workable and realistic, there had to be a fund out of which the resources for the adjustment would flow. The Group added that experience in many developing countries in the last decade had shown that where economic adjustment programmes had been implemented, such well-intentioned programmes had failed in the absence of a proper, adequate and reliable source of funds to support such structural adjustment programmes.

31. With regard to the chapeau of the provisional conclusions, the Group had no difficulty and it noted that the chapeau was important as a preamble to the conclusions which would be turned into recommendations, and that it contained the basic principles and philosophy underlying the conclusions.

32. As to provision conclusion 1, the Group seemed to agree with the EEC that the term "non-metallic elements" should be deleted.

33. With regard to provisional conclusion 2, the Group had no substantial difficulties. It added that it was important that the Authority should make its own forecasts of the mineral situation with or without sea-bed production in order that proper and adequate in-depth studies were carried out by the Authority when an application was received from a DLBPS. The Group further noted that the Authority should not merely collect existing data as suggested by the EEC.

34. Provisional conclusions 3 and 4 were, in general, acceptable to the Group of 77. The Group noted that applications from affected DLBPS should be sent to the Authority through the Economic Planning Commission, and not through the Secretary-General, as, according to the Group, nowhere in the Convention it stated or implied that the latter procedure could be followed. The Group added that it would be more efficacious to submit applications to a technical body rather than the S-G who would be an administrator and not a technician. The Group was opposed to the idea that assistance should merely be confined to adjustment measures as suggested by the EEC. In this context the Group suggested that a new provision be added in provisional conclusion 3 to the effect that a DLBPS must indicate what kind of assistance measures it required. The Group was also opposed to the idea of any additional data and information, beyond what was covered in the provisional conclusion, to be submitted to the Authority from the DLBPS applicant. In this context, in analyzing and processing the data and information required under this provisional conclusion, the Group suggested addition of a new subparagraph so that the Authority, if requested by the DLBPS, might provide technical assistance.

35. The Group was of the view that since provisional conclusion 3 referred to applications to be received from DLBPS likely to suffer adverse effects from sea-bed mining, applications should not be restricted to commence only from the time of the first submission of a plan of work for exploitation as suggested by the EEC.

36. The Group totally rejected attempts by the EEC to shift the primary responsibility of providing assistance to DLBPS from the Authority to the other international and multilateral organizations. The Group stated that the proposal by the EEC that requests for assistance should be directed by the Authority to other organizations with the purpose of studies to be carried out, measures to be taken, and assistance to be provided by the latter, was not only unacceptable to the group but clearly would not work. According to the Group, the international or multilateral organizations might not have legal obligations, mandates, or budgetary provisions to carry out such studies, take such measures or provide assistance, and that it was not indicated in the EEC proposal how the Authority would ensure that these matters would be taken care of. The Group added that the suggestion by the EEC that assistance should come from international organizations which had already assistance programmes in place in the DLBPS was unworkable since there were DLBPS where there would not be such assistance programmes in place.

37. With regard to provisional conclusion 4 the Group stated that the DLBPS , in its application, would present all facts, data and information indicating "how" the effects had been brought about by sea-bed production, and not "why".

38. Finally, the Group expressed problems with the idea of the EEC that the S-G would just "inform" the EPC and the Council, while, according to the Group, the Convention specified active roles of these two organs.

39. With respect to provisional conclusion 5, the Group stated that it could be acceptable to the Group, as discussed in the Ad Hoc Working Group, in particular in documents CRP.18/Rev.1 and Rev.2. However, the Group stated that the figures for dependency thresholds and trigger thresholds should be reduced further. The Group also suggested that in paragraph 2(c) of CRP.18/Rev.2, which addressed the cases of certain specific DLBPS, the term 'justify' should

be substituted with 'indicate.' The Group also added that the reference to 'forecast' which was contained in CRP.18/Rev.1, paragraph 3(b), but which was deleted in CRP.18/Rev.2, should be retained.

40. Provisional conclusion 6 was acceptable to the Group of 77. The Group noted that this provisional conclusion was important as it gave details of how the in-depth investigation was to be conducted by the EPC, and that it provided for terms of reference for such an investigation. The Group added that, to be consistent with this provisional conclusion, the suggestions in CRP.18/Rev.2 should include reference to "effects on economies".

41. As to provisional conclusions 7 and 9, the Group accepted them, noting that these provisional conclusions were critical because they would provide the basis for the in-depth study by the Authority of a general nature, the results of which would assist in determining those DLBPS likely to suffer adverse effects of sea-bed production. The Group added that the suggestions by the EEC to delete those provisional conclusions would defeat the concept of the "likelihood of adverse effects".

42. Provisional conclusion 8 was acceptable to the Group of 77. They noted that this provisional conclusion was important as it outlined the methodology to be applied in carrying out the mandate of in-depth investigations of adverse effects of sea-bed production. The Group maintained, this provisional conclusion also made provision for the Authority to carry out measurement of actual effects after sea-bed production had commenced.

43. The Group of 77 accepted provisional conclusion 10, noting that although the contents of this provisional conclusion were closely related to some parts of provisional conclusions 3 and 4 it was still very important that this provisional conclusion was retained as a specific statement of the need for the Authority to provide assistance to the DLBPS which was found likely to suffer adverse effects. This provisional conclusion, they added, further outlined the specific steps that the EPC would take in making recommendations to the Council and what the Council would do after receiving such recommendations.

44. With regard to provisional conclusions 11 and 14 the Group's position was as stated earlier in paragraphs 25-30 above. These two provisional conclusions were acceptable to the Group.

45. Provisional conclusion 12 was, in general, acceptable to the Group of 77. The Group, however, suggested to redraft subparagraph (a) so that the provision of assistance to DLBPS within the framework of co-operation between the Authority and other international or multilateral organizations should be under the auspices of the Authority and not outside its ambit. With respect to the relationship agreements between the Authority and the international or multilateral organizations, as addressed in subparagraph (d), the Group maintained that this subparagraph should not be deleted as suggested by the EEC because it was the link that was required for the Authority to be able to request existing organizations to provide assistance of any sort including providing funds for the Compensation Fund. The Group added that without such a nexus, once an existing international or multilateral organization was required to assist the DLBPS, the creative programmes of providing assistance would not materialize.

46. The Group of 77 stated that it had no strong feelings either way with regard to bilateral measures addressed in provisional conclusion 13.

47. Provisional conclusion 15 was acceptable to the Group of 77; the Group added that this provisional conclusion could be merged with provisional conclusions 3 and 4.

48. With regard to provisional conclusion 16, the Group stated that it had no particular difficulty.

49. With regard to provisional conclusion 17, the Group stated that it would await the availability of the anticipated working paper by the Secretariat before commenting on this issue.

50. As to the annex to provisional conclusions, the Group stated that it had no difficulty in supporting the idea of providing an annex, which would contain a list of data to be collected and studies to be undertaken by the Authority, and not by international organizations, because, the Group maintained, the primary obligation was on the Authority to collect data and to undertake studies on the world market situation with regard to the metals in question, and not on the existing international organizations.

## Discussion of CRP.20/Rev.1 and CRP.21

51. In the course of deliberations on the above documents, there was an exchange of views among various proponents, whereby a number of issues were re-emphasized, and certain issues were elaborated upon and clarified. For example, the delegation of the EEC explained that if sufficient funds were available to the Authority, it had no objection to the use of these funds by the Authority to contribute to economic adjustment or technical assistance programmes of the appropriate international institutions. Thus, it appeared to me, the EEC did not rule out the possibility that assistance would be provided under the auspices of the Authority and not outside its ambit. The EEC, however, pointed out that, at this time, they were not in a position to predict what the nature and the character of the Authority's involvement would be, because the availability of funds to the Authority, according to them, was a matter of the distant future. The EEC also added that during the initial phase of functioning of the Authority, the administrative expenses would be the first call on the Authority's funds, and that after defraying such administrative expenses there might not be any additional funds left; in any case, they maintained, if any additional funds were available there were competing demands on those funds in terms of sharing economic benefits of the common heritage of mankind by all countries, in particular developing countries.

52. With respect to the question raised by some delegations regarding the obligation or mandate or budgetary provisions of international and multilateral organizations with respect to provision of assistance to DLBPS, the EEC explained that within the framework of their respective mandates and programmes of work the relevant organizations were in a position to assist DLBPS, and funds were being expended for similar programmes at present; in any case, the members of the Council which were also involved in the operation of existing international or multilateral organizations, could be helpful. The EEC also added that a number of DLBPS had access to the programmes of these organizations, and that they were beneficiaries of their measures. It was further explained by the EEC that if there were no such measures in place in a particular DLBPS

concerned, a relationship between such a DLBPS and the relevant organization could be developed.

53. With respect to structural adjustment programmes, the EEC emphasized that in the context of the issues dealt with by Special Commission 1, it was only a particular sector of the economy which would be involved, and not the whole economy; therefore, they maintained, the possibility of such programmes succeeding would be much better. They also added that although diversification and growth in other sectors did not guarantee success, continued efforts and research of international or multilateral organizations to ensure such success would bear fruits.

54. As to the role of the S-G as a recipient of the application from a DLBPS, the EEC explained that it was mentioned in the Convention that the Authority would receive such applications, and it was logical that the S-G on behalf of the Authority would be the addressee. The EEC also added that it did not rule out the possibility that the technical staff and the subsidiary organs of the Authority of a technical nature would be involved in the consideration of the application.

55. On their part, the Group of 77 expressed their belief that CRP.16/Rev.1, CRP.20/Rev.1 and CRP.21 would form a basis for discussion of the unresolved issues between the Group of 77 and other interested groups, related to the mechanisms to be used to alleviate the problems of DLBPS, and the ways and means to be explored to set up such mechanisms. The Group also emphasized that it was not opposed to the idea and concept of economic adjustment as long as the economic adjustment programmes were flowing from a proper, adequate, and reliable source of funds.

56. The Group was also not opposed to the idea of S-G being the addressee for the application as long as the EPC had an active role in considering the application.

57. Other delegations commented upon the three documents. Some delegations opposed the establishment of a compensation fund because, in their view, it would involve a duplication of efforts already in place in international or multilateral organizations, it would impose a burden on the Authority with regard to funds, and it would be technically and methodologically difficult to address the problems of DLBPS within a macro-economic framework through a compensation fund. According to these delegations, sea-bed mining, if it occurred as a non-subsidized commercial operation based on market considerations, would not create much problem for the land-based producers of copper, nickel and manganese; however, in their view, cobalt producers might be affected. In any case, they maintained, there would be short-term balance of payments problems and long-term structural adjustment problems, which could only be addressed properly through the existing programmes of international or multilateral organizations dealing specifically with such problems. They added that although the operation of such programmes might not be perfect and the financing might be inadequate, necessary assistance could still be provided.

58. Some delegations were of the view that the establishment of a universal compensation fund was neither obligatory under the Convention nor did the Convention, when mentioning compensation system or economic adjustment assistance measures, imply that it was necessary to create such a fund. They added, there was no need for an additional fund when other organizations

already had such funds and capabilities; it would be an irrational duplication. In their view, compensation was a short term relief measure and not a cure; it was an inappropriate method to help DLBPS adjust to a changing market situation. They also added that over-burdening the Authority with the expenses related to a compensation fund might act as an obstacle for the Authority in commencing its functions and continuing its work. These delegations opposed the establishment of a compensation fund, and reiterated their support for the negotiation of bilateral agreements to assist DLBPS. They also expressed their dissatisfaction with CRP.16/Rev.1 which, in their view, did not take into account the position of those delegations that opposed the creation of a compensation system or fund, and treated bilateral agreements in a brief and superficial manner. These delegations hoped that the negotiating group could come up with more comprehensive conclusions that took into account the positions of all delegations, which might be acceptable to them.

59. Some delegations expressed the concern that the interests of resource-poor developing countries which might consider entering into sea-bed mining to reduce their dependence on imports, were not addressed through bilateral agreements or through compensation. Contributing funds for such measures might involve an unfair burden on such countries, and thus was inequitable, they added.

60. Some delegations were of the view that whether the Authority would independently study and assess the problems of DLBPS and whether it must make use of existing data and information were issues of a procedural nature and not substantive ones. According to these delegations, what was important was that the issues be examined on a case-by-case basis without making it obligatory on the Authority to use existing data and studies, on the one hand, and to have its own data and carry out its own studies, on the other. These delegations also added that the applications from affected DLBPS should be sent to the EPC. They further added that the compensation fund constituted a measure which the Authority could adopt, if the Authority deemed it necessary and possible. In case such a fund is established, these delegations added that the resources of the fund should come from sea-bed operators that committed a violation by exceeding their sea-bed production quota.

## Formation of a negotiating group presided over by the Chairman

61. The deliberations in the Special Commission on the provisional conclusions have come to a stage where, I strongly felt, it was necessary to find a forum for negotiations other than the plenary of the Special Commission. This was because in the formal setting of the plenary of the Special Commission, delegations tended to re-affirm their respective positions, and seemed to be averse to reaching compromises. The respective positions have been put forward in the various documents. Although, on the face of it, there appears to be widely divergent views, I felt that there were also enough underlying trends which could be put together to bridge the apparent gap among various groups of delegations. This could best be done in a different setting, and in a smaller group. The need for a different forum was also voiced by a number of delegations.

62. Having identified the need, the Bureau discussed three alternatives: (a) to expand the mandate of the existing Working Group dealing with the hard core issues, to cover the whole range of issues addressed in provisional

conclusions; (b) to form a new Working Group to deal with the provisional conclusions; and (c) to form a smaller negotiating group around the Chairman, to negotiate all matters addressed in the provisional conclusions. The Bureau preferred the third alternative and the Special Commission endorsed the Bureau's preference.

63. Having been mandated by the Special Commission, I consulted with representatives of the various regional groups and of the various interest groups, and formed a 13-member negotiating group. Various regional groups and interest groups - developing and developed countries, consuming and land-based producing countries, pioneer investors and potential applicants, developing producer States, consumer/importer States, and those who are interested in sharing the economic benefits from the exploitation of the common heritage of mankind — are represented in this negotiating group. The members of the negotiating group are: Algeria, Australia, Canada, Chile, China, Cuba, EEC, Japan, Philippines, Poland, Uganda, USSR, and Zambia, without prejudice to any member of the Commission presenting its case. The Special Commission endorsed the composition of the group.

64. The terms of reference of the group include negotiations on the provisional conclusions and seeking solutions. The group does not have a decision-making power; when solutions are agreed upon, the members of the group would take the solutions to their respective constituent groups — regional groups and interest groups — for consideration, later to be considered in the Special Commission. The group, it was the understanding of the Special Commission, would commence its work during the summer meeting in New York.

65. In this context, the role of the Special Commission will be three-fold: consideration of two pending topics - commodity agreements and projection of mineral supply-demand-price - on which working papers from the Secretariat are expected, and any other topics the members of the Commission would like to raise; consideration of the reports of the Chairman of the Ad Hoc Working Group on the progress of work on the hard core issues; and consideration of positions of the various regional Groups and interest groups on the matters on which the negotiating group have put forward its recommendations.

66. There are of course some linkages between the work of the Working Group and that of the negotiating group. No strict, formalized division of labour between the two groups has been decided upon. This will be discussed during the summer meeting in New York. While, pursuant to past agreements in the Special Commission, meeting time would be shared between the Special Commission and the Ad Hoc Working Group, it is the understanding of the Special Commission that the negotiating group could meet any time, as it deems appropriate, without interfering with the work of the Special Commission or the Working Group.

## II. CONSIDERATION OF CRP.10/Add.1

67. It can be recalled that, with the understanding in the Special Commission that information on existing or proposed measures/programmes/activities of global, interregional, regional and subregional organizations, intergovernmental or non-governmental, would be useful for the purpose of the Special Commission, the Secretariat had issued a series of documents, LOS/PCN/SCN.1/WP.5 and Adds.1-4. The vast amount of useful information contained in WP.5 was summarized by me, highlighting the points in the

measures/programmes/activities of the organizations which are of particular relevance to the work of our Special Commission; this summary is contained in document LOS/PCN/SCN.1/1986/CRP.10. After examining the four addenda to WP.5 and taking into account the discussion on these documents, during this session I presented a summary of the points contained in the measures/programmes/ activities of organizations additional to those dealt with in CRP.10. This summary is contained in document CRP.10/Add.1.

68. There was a discussion on this document in the Special Commission. While delegations appreciated the efforts of the Chair, some delegations presented additional information or comments to be incorporated in CRP.10/Add.1, which will be done in due time. Such additional information or comments include the following: the inaugural meeting of the International Nickel Study Group was held in 1990; in addition to providing development loans to its member countries both from its own funds and from the African Development Fund, the African Development Bank provides loans and grants from the Nigeria Trust Fund; the Asian African Legal Consultative Committee's assistance might not be directly relevant for the purpose of the DLBPS.

## III. AD HOC WORKING GROUP

69. The Ad Hoc Working Group of Special Commission 1 held three meetings under the Chairmanship of Mr. Luis Giotto Preval Paez (Cuba). Of the three hard core issues entrusted to the Group, it had the opportunity to deliberate upon two. The report of the Chairman of the Group is annexed to this statement. The Group will continue its work during the summer meeting in New York.

## IV. FUTURE WORK

70. For the summer meeting in New York, the Special Commission would like to request, through the Preparatory Commission, the Secretariat to prepare two working papers - one on commodity agreements, and the other on projection of future supply-demand-price of copper, nickel, cobalt and manganese. The Special Commission will discuss these two papers during that meeting. The Special Commission will also consider any other matters brought to its attention by its members. The negotiating group presided over by the Chairman will commence its work during the summer meeting in New York, and hopefully, will have a considerable extent of progress to report to the Special Commission for the latter to endorse the outcomes of its work. The Ad Hoc Working Group will continue the deliberations on the hard core issues and again hopefully, will resolve those issues and report the resolutions to the Special Commission for it to endorse the same. I would also like to remind delegations that the Special Commission still has to prepare its report to the Authority, which will include its recommendations to the Authority on matters mandated to it.

## Annex

## REPORT OF THE CHAIRMAN OF THE AD HOC WORKING GROUP OF SPECIAL COMMISSION 1

### Consideration of LOS/PCN/SCN.1/1991/CRP.18/Rev.2

1. During this session, the Group started its work with the consideration of document CRP.18/Rev.2. It can be recalled that I had put forward, in document LOS/PCN/SCN.1/1989/CRP.18/ and Add.1, certain suggestions with regard to the criteria for the identification of developing land-based producer States (DLBPS) actually or likely to be affected by sea-bed production. Those suggestions were discussed extensively in the Group during the 1989 summer meeting and at the eighth session of the Preparatory Commission. It appeared to me that certain revisions needed to be incorporated to facilitate agreement among delegations regarding the suggestions. Such revisions were put forward by me in document CRP.18/Rev.1. Those revised suggestions were discussed in the Working Group during the 1990 summer meeting. I felt that the exchange of views on CRP.18/Rev.1 was very fruitful and pointed to certain trends which could be pursued with a view to reaching agreements among delegations. During this session, with that purpose in mind, I issued a second revision which is contained in CRP.18/Rev.2.

2. The revised suggestions contained in CRP.18/Rev.2 incorporate the ideas which were the outcomes of the deliberations of the Group during the 1990 summer meeting in New York. These ideas are summarized in subparagraphs (a) to (d) of paragraph 8 of my report that is annexed to the Statement to the plenary by the Chairman of Special Commission 1 on the progress of work in that Commission during the summer meeting in New York (LOS/PCN/L.83). The texts suggested in CRP.18/Rev.2 reflect the above four ideas.

3. Delegations made a number of comments on the revised suggestions. Some delegations felt that the figures for dependency thresholds and for trigger thresholds in CRP.18/Rev. 2 were two high. They also pointed out that the adverse effects of sea-bed production addressed in that document should also include adverse effects on economies of DLBPS, in addition to those on export earnings. They further added, before sea-bed production occurred, a DLBPS likely to be affected by future sea-bed production could only be identified with reference to the comparison between their existing situation and the forecasted situation where sea-bed production did occur. These delegations also suggested that the term "justify" in paragraph 2(c) of the document should be replaced by the term "indicate".

4. Some delegations questioned the theoretical basis of arriving at the figures for dependency thresholds and trigger thresholds. These delegations also emphasized that the effects of sea-bed mining had to be isolated from those of other factors.

5. Some delegations expressed their preference for one figure for dependency thresholds instead of two contained in CRP.18/Rev.2. They also emphasized that the effects of sea-bed production could only be measured after sea-bed production occurred. They added, if any estimation or forecasting exercises needed to be carried out in relation to the application of the criteria, they

did not have any problems with such exercises _per se_; however, they opposed the idea of the Authority carrying out such exercises.

6. Some delegations questioned the basis of according priority in carrying out an in-depth investigation to the cases of the DLBPS of certain minerals e.g., cobalt.

7. The above comments of the delegations led me to believe that further refinement of the suggestions contained in CRP.18/Rev.2 could be achieved. To this end, CRP.18/Rev.3 could be issued in the future.

Consideration of document LOS/PCN/SCN.1/1991/CRP.19/Rev.2

8. The Group then proceeded to the consideration of the suggestions contained in CRP.19/Rev.2. It can be recalled that I had put forward, in document LOS/PCN/1989/CRP.19, certain suggestions with regard to assistance to DLBPS affected by sea-bed production. Those suggestions were discussed extensively in the Group during the 1989 summer meeting and the eighth session of the Preparatory Commission. At the conclusion of the eighth session, it appeared to the then Chairman of the Working Group that certain revisions needed to be incorporated to facilitate agreement among delegations regarding the suggestions. Such revisions were put forward by him, and supported by me, in document LOS/PCN/SCN.1/1991/CRP.19/Rev.1. These revised suggestions were discussed in the Group during the 1990 summer meeting. At the conclusion of that meeting, it was my assessment that a productive negotiating atmosphere was prevailing in the Group and that this atmosphere should be put to use in furthering the objective of achieving agreement among delegations. To this end, during this session, I issued a second revision of document CRP.19 which contains my revised suggestions.

9. The general trends mentioned above were identified in subparagraphs (a) to (c) of paragraph 13 of my report, annexed to the statement to the plenary by the Chairman of Special Commission 1. The revised texts in CRP.19/Rev.2 are intended to reflect these trends.

10. Delegations expressed their views on the revised suggestions contained in CRP.19/Rev.2, during this session. Some delegations were of the view that assistance would be provided to DLBPS only if effects of sea-bed mining materialized. These delegations added, the study of these effects could only be made on the basis of data on minerals with regard to demand, supply, price, substitution, recycling and technological changes as well as data on the scale of future sea-bed production. According to these delegations, since sea-bed mining would not occur in the foreseeable future, the formulation, at this time, of assistance measures to DLBPS would be very premature and risky. They also emphasized that if assistance measures were to be discussed, they would concentrate on economic adjustment measures rather than compensation.

11. Some delegations pointed out that the document contained a very useful catalogue of assistance measures and that it was left to the Authority to decide upon a combination of measures from that catalogue, and to consider formulation of a measure of its own as well. In their view, paragraph 4 of the document addressing the formulation of a measure of its own by the Authority and the issues related to it, such as, examining the extent of resource constraints faced by the Authority, the possibility of mobilizing resources inspite of the constraints, and the most effective way the resources can be

utilized, however limited they might be, was an attempt to reach a compromise among the positions of various delegations.

12. Some delegations expressed their concerns regarding the absence of any explicit mention of a compensation fund to be established by the Authority. In addition to these concerns, some delegations felt that whatever was implicit in paragraph 3(a) of the document, was considerably diluted by the mention of limitations with regard to the formulation of a measure of its own by the Authority in paragraph 4. Some delegations added that the document did not provide for any obligation for the Authority to have its own measure, there was no specified system of assistance included in the document, and that all matters in this regard were left to the Authority to be decided on a case-by-case basis. These delegations, however, appreciated the efforts of the Chair in attempting to reach a compromise, although the texts in document CRP.19/Rev.2, they maintained, were quite different from those in the Convention.

13. Some delegations were opposed to the idea of a compensation fund or a measure of its own to be adopted by the Authority, however explicit or implicit the reference to those measures were.

14. It appeared to me that the differences in the positions of the delegations were quite wide indeed. Under these circumstances, we have to expend further intensive efforts during the next session in an attempt to seek common grounds.

Future work

15. During this session, the Group did not have an opportunity to discuss the third issue entrusted to it, i.e., effects of subsidized sea-bed mining. During the summer meeting in New York, in addition to the consideration of the refinements of CRP.18/Rev.2 and the continuation of deliberations on CRP.19/Rev.2, the Group is planning to address the issue of the effects of subsidized sea-bed mining, in particular starting with the consideration of document LOS/PCN/SCN.1/1989/CRP.15 on this matter.

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## STATEMENT TO THE PLENARY BY THE CHAIRMAN OF SPECIAL COMMISSION 1 ON THE PROGRESS OF WORK IN THAT COMMISSION

### Programme of work

1. As recommended by its Bureau, Special Commission 1 adopted its programme of work for the current session as follows: (a) the plenary of the Special Commission would consider the working paper prepared by the Secretariat on international commodity agreements or arrangements, and any other matters delegations wished to discuss; (b) the Ad Hoc Working Group of the Special Commission mandated to deal with certain "hard-core" issues would continue its deliberations; and (c) the Chairman's Negotiating Group established by the Special Commission during the ninth session at Kingston would commence its work, concentrating on the provisional conclusions of the deliberations of the Special Commission since its inception.

### Meeting schedule

2. During the session, the Special Commission held four meetings. In order to accommodate an additional meeting of the Training Panel, the Special Commission agreed, with a view to facilitating the work of the Preparatory Commission, to let the time allocated to it for one meeting be utilized by the Training Panel. The time for another meeting was fully allocated to the Ad Hoc Working Group and the Contact Group of the Group of 77 on Special Commission 1 Matters.

3. The Ad Hoc Working Group of the Special Commission met three times, sharing meeting time with the Special Commission. The Chairman's Negotiating Group had four meetings. The Bureau of the Special Commission met twice.

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## I. WORK OF THE PLENARY OF THE SPECIAL COMMISSION

### Consideration of working paper on commodity agreements

4. At the request of the Special Commission, the Secretariat prepared, for the current session, a working paper on international commodity agreements or arrangements, contained in document LOS/PCN/SCN.1/WP.14. In relation to the protection of developing countries from adverse effects on their economies or on their exporting earnings resulting from seabed production, the United Nations Convention on the Law of the Sea refers, in article 151 (1), to international commodity agreements or arrangements through which the International Seabed Authority could take measures necessary to promote the growth, efficiency and stability of markets for those commodities produced from the minerals derived from the international seabed area, namely copper, nickel, cobalt and manganese. In studying the problems which would be encountered by developing land-based producer States (DLBPS) likely to be most seriously affected by seabed production, with a view to minimizing their difficulties and helping them to make the necessary economic adjustment, the Special Commission thus wished to examine the issue of international commodity agreements or arrangements (ICAs).

5. Working paper 14 outlines the salient features of ICAs, reviews the current trends and developments and describes briefly the ICAs currently in operation. It is to be noted that with respect to the four mineral commodities of particular interest to the Special Commission, in the case of nickel, there is at present an international commodity arrangement in the form of the International Nickel Study Group; in the case of copper, the terms of reference of the International Copper Study Group were adopted in 1989, but the Study Group is yet to come into operation, pending the fulfilment of the criteria for entry into force of the terms of reference; in the case of manganese, intergovernmental efforts, with the participation of producers and consumers, addressing the world manganese situation are under way and may lead to the consideration of an international study group in the future; cobalt is not covered by any existing ICA.

6. Delegations were invited to deliberate on the issue of ICAs, focusing on whether, and to what extent, ICAs could be helpful to DLBPS in the context of their possible problems resulting from future seabed production, and whether the Special Commission could recommend to the Authority that ICAs in the mineral commodities concerned could be promoted.

7. Some delegations emphasized the need for cooperation and participation of major producers and consumers in order for an ICA to succeed, adding that the main reason of the failure of the Sixth International Tin Agreement was not a lack of finance per se, but rather a lack of participation of some important producers and consumers as well as the political inability to adjust the price range downwards. They drew the attention of the Special Commission to some very difficult negotiating history in the Committee on Commodities of the United Nations Conference on Trade and Development (UNCTAD) on the matter of ICAs and the issues being discussed there, which address the criteria for the

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establishment and successful operation of ICAs. In view of those problems, they cautioned against undue optimism in respect of the international community being keen about ICAs.

8. Some delegations noted that although commitments on the part of the international community with regard to ICAs seemed to be undiminished, the practical translation of the commitments in terms of the actual establishment and operation of ICAs had not been achieved. They pointed out that the main difficulties with regard to ICAs arose from the fact that ICAs needed to bring together two diametrically opposed interest groups, namely, producers, interested in higher prices, and consumers, interested in lower prices.

9. Some delegations were of the view that seabed mining would be an entirely new element in the mineral markets, and that it was difficult to foresee what conditions would prevail in the mineral markets with the introduction of seabed mining and what role ICAs could play under those conditions. Those delegations added that in view of the difficulties encountered with respect to ICAs, the future of ICAs remained uncertain, and that DLBPS could not rely on ICAs as effective measures to alleviate their problems.

10. Some delegations agreed that the historical experience demonstrated that the anticipated results from ICAs had not materialized, and that developing countries had been most affected by the failure of ICAs. They added, however, that to avoid disruptions in the market both producers and consumers might be interested in stabilized prices, and that there was some possibility that in the future effective ICAs might come into operation, which was perhaps the spirit behind the reference to ICAs in the Convention. In their opinion, although ICAs were very far from being an effective way of solving commodity problems, it would be useful to keep in view the trends and developments with regard to ICAs in the future, because the situation might improve and good results might be obtained.

11. Some delegations pointed out that there were problems not only in concluding ICAs, but also in bringing ICAs into force and effective operation after they were concluded. They also noted the increasing difficulty of concluding ICAs with economic provisions, the only ones, in their view, which by having a relatively direct impact on markets might be helpful to DLBPS. Other delegations agreed and added that because of a lack of cooperation among major consumers and producers ICAs with economic provisions ran a high risk of failure, and such failure affected developing countries most adversely. Other delegations also agreed, adding that although ICAs with commodity development or market transparency objectives might work they were of relatively less assistance to DLBPS.

12. In the view of some delegations, in spite of all the problems, bearing in mind the imperatives of cost-effective utilization of resources, maximum use of all existing measures including ICAs should be sought.

13. Some delegations provided additional information, mostly of a technical nature, in order that the working paper could be further improved and made

comprehensive. They mentioned that many international commodity study groups such as those on copper, nickel, and lead and zinc, respectively, were autonomous bodies outside the aegis of UNCTAD. They pointed out the role of Food and Agriculture Organization of the United Nations (FAO) in ICAs in agricultural commodities. They mentioned currently existing ICAs or international producer-consumer cooperation, for example on wool. They added that the International Copper Study Group was yet to come into operation since the criteria for entry into force of the terms of reference of the Group had not been met to date.

14. It appeared to the Chairman of the Special Commission that delegations tended to agree in general with the concluding remarks of the working paper to the effect that, bearing in mind the problems and prospects of ICAs, the Special Commission and, in the future, the Authority might benefit most by keeping abreast of the developments with regard to ICAs and in due time making further assessments in the context of their own objectives as to the feasibility and effectiveness of ICAs. With respect to the question as to whether the Authority should encourage the establishment of ICAs in the mineral commodities concerned, there did not seem to be any agreement one way or the other.

## Other matters

15. Some delegations raised an issue about the Ad Hoc Working Group and the Chairman's Negotiating Group. In their view those Groups, holding closed meetings in conference rooms with limited facilities, including lack of interpretation, hindered the participation of delegations, and the matters being deliberated in those Groups required the participation of all delegations.

16. In response to the concerns of those delegations, it was recalled that the establishment of the above Groups and the way they would function had come about at the decision of the Special Commission itself. The outcomes of the work of the Groups, it was explained, would be brought to the Special Commission so that all delegations in the plenary would be able to deliberate upon them and take decisions. The Ad Hoc Working Group was open to all delegations, and it held its meetings in conference rooms with full facilities, including interpretation in the six official languages of the General Assembly. It was for the sake of economy in the utilization of the resources of the United Nations that the Special Commission had decided that the Chairman's Negotiating Group would hold meetings without calling for interpretation from the Secretariat. However, it was added, the limited composition of that Group was "without prejudice to any member of the Commission presenting its case", and members of the Commission other than the 13 members of the Group had been attending the meetings of the Group which had commenced functioning during the current session, and had been presenting their cases.

17. Nevertheless, efforts would be made to explore possibilities of sharing meeting time and facilities between the Special Commission and the Negotiating Group during the next session.

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## II. WORK OF THE AD HOC WORKING GROUP

18. The Ad Hoc Working Group of the Special Commission continued its work under the Chairmanship of Mr. Luis Giotto Preval Paez (Cuba) and made considerable progress in its work. Intensive efforts to resolve one of the three issues entrusted to the Group - criteria for the identification of DLBPS actually or likely to be affected by seabed production - seemed to be leading to successful outcomes. The report of the Chairman of the Group is annexed to the present statement.

## III. WORK OF THE NEGOTIATING GROUP

19. During the ninth session of the Preparatory Commission, at the decision of the Special Commission, the Chairman's Negotiating Group was established for the purpose of carrying out negotiations on the provisional conclusions of the deliberations of the Special Commission which can form the basis of its recommendations to the Authority, and of seeking solutions. Various regional groups and interest groups are represented in this Negotiating Group. The members of the Group are: Algeria, Australia, Canada, Chile, China, Cuba, the European Economic Community (EEC), Japan, Philippines, Poland, Uganda, the Union of Soviet Socialist Republics and Zambia, without prejudice to any member of the Commission presenting its case. The Group is chaired by the Chairman of the Special Commission. The Group does not have decision-making power; when solutions are agreed upon, the members of the Group take the solutions to their respective constituent groups - regional groups and interest groups - for consideration, to be considered later in the Special Commission.

20. During the current session, the Chairman's Negotiating Group commenced its work. As mandated, the Group concentrated on the provisional conclusions. It may be recalled that the Chairman of the Special Commission had in that capacity put forward his suggestions on the provisional conclusions in document LOS/PCN/SCN.1/1989/CRP.16, which were later revised in document CRP.16/Rev.1, containing 17 provisional conclusions and two annexes. During the ninth session, two groups of delegations, EEC and its member States and the Group of 77, submitted amendments to the provisional conclusions; they are contained in documents LOS/PCN/SCN.1/1991/CRP.20/Rev.1 and CRP.21, respectively. The work of the Negotiating Group was carried out, as an initial attempt, on the basis of the above three documents, since they address the whole range of provisional conclusions. However, the positions and proposals of other groups of delegations and individual delegations have been expressed in the deliberations of the Special Commission and of the Ad Hoc Working Group during the past sessions. Positions and proposals with regard to certain central issues, if not the whole range of issues, were also presented in various documents: LOS/PCN/SCN.1/WP.8 contains the position and proposals by the Group of Eastern European socialist countries; LOS/PCN/SCN.1/1985/CRP.6 and CRP.17 contain those of Pakistan; and LOS/PCN/SCN.1/1985/CRP.7 contains those of Zimbabwe. All of these positions, proposals and documents were also under consideration in the Negotiating Group.

21. It should be noted that the whole range of provisional conclusions include certain "hard-core" issues which have been entrusted to the Ad Hoc Working Group of the Special Commission. At the outset, it was agreed that the Negotiating Group would defer consideration of those provisional conclusions which are directly linked with the work of the Ad Hoc Working Group, pending the outcomes of the work of the latter group.

22. It was agreed that, as an initial exercise, the Negotiating Group would proceed provisional conclusion by provisional conclusion with a view to (a) identifying areas of agreement, (b) identifying areas of disagreement and, most importantly, (c) in the latter cases, seeking underlying concerns, interests and efforts to accommodate positions of others beneath the apparent surface divergences. It was the hope and commitment of all the members of the Negotiating Group that some compromise solutions could be built upon these underlying understandings. As a logical corollary of this approach, it was agreed that at the time no detailed drafting would be attempted.

23. The Chairman is happy to report that during the current session the above exercise of the Negotiating Group has progressed from provisional conclusion 1 to provisional conclusion 10, and most significantly, the search for finding a basis for solutions is bearing fruit in many instances. It gives him great pleasure to mention the spirit of understanding and cooperation and, above all, the solution-seeking efforts of all the members of the Negotiating Group. He wishes to express his sincerest appreciation to them, and to all the members of the Special Commission for their support of the work of the Negotiating Group.

## IV. FUTURE WORK

24. It may be recalled that the Special Commission had identified a wide range of topics which it needed to study in order to fulfil its mandate efficiently. All but one of those topics have been studied in an extensive manner, in most cases, on the basis of working papers prepared by the Secretariat. For the next session the Special Commission, through the Preparatory Commission, would like to request the Secretariat to prepare a working paper on the remaining topic, namely, projection of future supply-demand-price of copper, nickel, cobalt and manganese. In preparing the working paper, the Secretariat should coordinate with the Chairman's Advisory Group on Assumptions of Special Commission 2 with a view to avoiding any duplication of work.

25. During the next session, the Special Commission will study the topic of projection on the basis of the above working paper and will deal with any other matters delegations wish to raise. The Ad Hoc Working Group will continue its deliberations on the issues entrusted to it. The Chairman's Negotiating Group will continue its work on the provisional conclusions.

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## Annex

## REPORT OF THE CHAIRMAN OF THE AD HOC WORKING GROUP OF SPECIAL COMMISSION 1

### Consideration of LOS/PCN/SCN.1/1991/CRP.18/Rev.2

1. During the current session, the Group needed almost all of the limited time available to it to try to resolve the issue of the identification of developing land-based producer States (DLBPS) actually or likely to be affected by seabed production. The Group considered the revised suggestions put forward by the Chairman of the Ad Hoc Working Group on this issue in CRP.18/Rev.2.

2. Some delegations stated that they were encouraged by the revised suggestions and expressed their feeling that the resolution of the issue was close. They felt that the figures for dependency thresholds and trigger thresholds specified in CRP.18/Rev.2 were reasonable. They suggested that the term "justify" in paragraph 2 (c) should be replaced by "prove". They also expressed the difficulties raised for them by the "forecasts" mentioned in paragraph 3 (b). They added that the role of the Economic Planning Commission mentioned in paragraph 5 was under discussion in the Chairman's Negotiating Group. In this context, they pointed out that the suggestions being considered in the Working Group and the provisional conclusions under consideration in the Negotiating Group were interrelated.

3. Some delegations felt that the figures for dependency thresholds were still too high. They also felt that the way the matter of categorization was dealt with in paragraph 2 (c) with respect to DLBPS that might encounter special problems was too restrictive.

4. In the view of some delegations, the idea of applying criteria was not in the Convention and any restrictions would be contrary to the provisions of the Convention providing for assistance to DLBPS. They expressed their preference for the Authority to deal with applications from DLBPS on a case-by-case basis. On the other hand, other delegations emphasized that the criteria were necessary; otherwise, the Authority might be burdened with an unduly large number of applications, which could jeopardize its ability to assist DLBPS in an efficient and cost-effective manner. They added that the provision for dealing with DLBPS with special problems on a case-by-case basis, as contained in paragraph 2 (c), could be viewed as a "safeguard" provision which might address the concerns of other delegations.

5. Some delegations expressed the view that since seabed mining would not take place in the foreseeable future, the specification of any concrete criteria would be premature. Without a methodology to isolate the effects of seabed production from those of other factors, concrete criteria could not be established. They also maintained that the objective basis of establishing the criteria should be clearly spelt out.

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6. Some delegations questioned the basis on which the figures in CRP.18/Rev.2 had been specified. In their view, the figures were heavily biased by those in the European Economic Community's System for Minerals (SYSMIN). They emphasized that other organizations, including the United Nations and the World Bank, might be able to provide information that could form the basis for different figures.

7. In the assessment of the Chairman, certain modifications might facilitate the acceptance of the suggestions by delegations. To this end, it is his intention to incorporate the following modifications and to present a third revision of CRP.18 at the next session:

(i) Since it appears that the main problem is with regard to the figures, the figures would be viewed as merely indicative. The Authority, in due time, could determine the definitive figures;

(ii) As an indicative figure, only 10 per cent would be mentioned in paragraph 2 (a);

(iii) Paragraph 2 (b) could be deleted, because too many categories are confusing and unnecessary. In any case, the reason these various categories were considered originally was to relate them to DLBPS which are actually or likely to be affected, seriously affected or most seriously affected; such determination would result from the in-depth investigation addressed in the provisional conclusions;

(iv) Paragraph 2 (c) could be redrafted to take into account the concerns of delegations;

(v) Paragraph 3 (b) could be retained to accommodate the cases of DLBPS likely to be affected by seabed production;

(vi) Paragraph 5 could be deleted since there was no strong support from delegations;

(vii) Certain drafting changes could be made in some paragraphs to make them clearer in meaning.

## Consideration of LOS/PCN/SCN.1/1991/CRP.19/Rev.2

8. In spite of time constraints, the Group had an opportunity to exchange views with regard to the revised suggestions on assistance measures for DLBPS, contained in CRP.19/Rev.2.

9. Some delegations stated that the revised suggestions were acceptable to them. Some other delegations however expressed the problems they had in accepting the suggestions, emphasizing that many of them ran counter to their basic principles with regard to protection of DLBPS, compensation and the role of the Authority. They also added that most of the matters addressed in CRP.19/Rev.2 were related to the provisional conclusions being dealt with in the Chairman's Negotiating Group.

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10. Since the issues dealt with in the Working Group are interrelated with many of the provisional conclusions under consideration in the Chairman's Negotiating Group, it is the feeling of the Chairman of the Working Group that an effective way of integrating the outcomes of the work of the Working Group with that of the Chairman's Negotiating Group needs to be found. Efforts to that end would be made in the next session.

Consideration of LOS/PCN/SCN.1/1989/CRP.15

11. As discussed at the last session, consideration of the issue of the effects of subsidized seabed mining, addressed in CRP.15, would be postponed to the next session pending the outcomes of the Uruguay Round of Negotiations under the auspices of the General Agreement on Tariffs and Trade (GATT).

Future work

12. The Ad Hoc Working Group will continue its deliberations during the next session, with a view to completing its work at that session.

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FOR THE LAW OF THE SEA
Tenth session
Kingston, Jamaica
24 February-13 March 1992

# STATEMENT TO THE PLENARY BY THE CHAIRMAN OF SPECIAL COMMISSION 1 ON THE PROGRESS OF WORK IN THAT COMMISSION

## Programme of work

1. At the outset of this session, the Bureau of the Special Commission recommended that the Ad Hoc Working Group of the Special Commission should be given as much time as possible so that it could deal effectively with the 'hard core' issues entrusted to it. In plenary meetings, the Special Commission would deal with any outstanding topic and any matters delegations wished to raise. The Chairman's Negotiating Group would continue with the negotiations on the provisional conclusions. In its first meeting, the Special Commission adopted the recommendations of the Bureau on the programme of work.

2. During this session, eight meetings were allocated to the Special Commission, of which one was utilized by the Informal Plenary of the Preparatory Commission. Five meetings were fully devoted to the Ad Hoc Working Group, and it shared time with the Special Commission for one meeting. The Contact Group of the Group of 77 on Special Commission 1 Matters shared meeting time with the Special Commission on one occasion. The Chairman's Negotiating Group had five meetings in the time allocated to it, that was different from that allocated to the Special Commission. The Bureau of the Special Commission met twice during this session.

## I. WORK OF THE PLENARY OF THE SPECIAL COMMISSION

3. During the first meeting, besides adopting the programme of work, the Special Commission nominated Mr. Samuel Sona Betah (Cameroon) as the 'Caretaker' Chairman of the Ad Hoc Working Group to chair its meetings in the absence of the Chairman, Mr. Luis G. Preval Paez (Cuba). Certain hard core issues that have been entrusted to the Working Group are also addressed in some of the provisional conclusions to be negotiated in the Chairman's Negotiating

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Group; it was agreed that the latter Group would defer consideration of the provisional conclusions in question pending the report of the former Group on the relevant issues.

4. Some delegations emphasized the need to produce results rapidly, and to that end, urged the Special Commission to take stock of what had been accomplished and what was still outstanding requiring resolution.

## II. WORK OF THE AD HOC WORKING GROUP

5. The Ad Hoc Working Group continued its work under the Chairmanship of Mr. Samuel Sona Betah (Cameroon) for the first two meetings, and under that of Mr. Luis G. Preval Paez (Cuba) for the last four meetings. There were extremely productive exchanges of ideas and suggestions on one of the hard core issues - criteria for the identification of developing land-based producer States (DLBPS) actually or likely to be affected by seabed production; the resolution of the issue appears very close at hand. The report of the Chairman of the Group is annexed to the present statement.

## III. WORK OF THE CHAIRMAN'S NEGOTIATING GROUP

6. The Group continued its negotiations on the provisional conclusions based on the Chairman's suggestions contained in document LOS/PCN/SCN.1/1990/CRP.16/Rev.1, the amendments suggested by the European Economic Community and its member States, and by the Group of 77, contained in documents LOS/PCN/SCN.1/1991/CRP.20/Rev.1 and LOS/PCN/SCN.1/1991/CRP.21, respectively. The provisional conclusions could form the basis of the Special Commission's recommendations to the International Seabed Authority.

7. Of the 17 provisional conclusions contained in CRP.16/Rev.1, the first nine were dealt with in the last meeting of the Preparatory Commission in Fall 1991. At the outset of this session, the EEC and its member States submitted further suggestions on provisional conclusions 6, 7, 8 and 9. These provisional conclusions deal essentially with the in-depth investigation which would be carried out on a case-by-case basis, after it had been determined to do so, after the receipt of the applications from DLBPS for assistance or remedial measures.

8. There were very fruitful negotiations on the suggestions of the EEC, centering around basically two substantive issues: (a) the role of the Authority, in particular the Economic Planning Commission, and that of other relevant international organizations, in carrying out the investigation and in determining the necessary measures; and (b) certain detailed items to be covered in the investigation. In the assessment of the Chairman, possible compromises are in sight on the first issue, and in the next stage, attempts will be made to clinch such compromises; the second issue was resolved satisfactorily.

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9. The Group then proceeded to exchange views on provisional conclusions 10 and 11 dealing with the measures for DLBPS likely to be or actually affected by seabed production. These provisional conclusions which are related to the following provisional conclusions 12 to 17, address the most intractable issues under the mandate of the Special Commission. Some progress was made in the negotiations, but further intensive efforts mobilising the political will of the various groups will be required with a view to achieving compromises.

10. At the end of the session, the Chairman circulated among the members of the Negotiating Group, his re-drafted versions of provisional conclusions 1 to 4 and 6 to 9 (the issues addressed in provisional conclusion 5 are still under consideration in the Ad Hoc Working Group). These re-drafts are intended to reflect compromises, as assessed by the Chairman based on the negotiations in the Group. The members of the Group will thus have an opportunity to study them during the intersessional period, which in turn will facilitate the work of the Group during the next session.

## IV. FUTURE WORK

11. There is one remaining topic on which the Special Commission intends to deliberate -- projection of supply-demand-price of metals contained in polymetallic nodules, i.e., copper, nickel, cobalt and manganese. The Special Commission reiterates, through the Preparatory Commission, its request to the Secretariat to prepare a working paper on the topic. The Ad Hoc Working Group will continue its work in the future in an attempt to finalize its deliberations, particularly on the two remaining 'hard core' issues -- assistance to DLBPS including compensation, and effects of subsidized seabed mining. The Chairman's Negotiating Group will continue its negotiations in an attempt to finalize the provisional conclusions.

12. The Special Commission intends to provisionally conclude its work by the end of the 1992 Fall Meeting. It will concentrate on solving the issues discussed in the Ad Hoc Working Group and in the Chairman's Negotiating Group during the first part of that Meeting, while working on its final report during the latter part of the Meeting.

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## ANNEX

## REPORT OF THE CHAIRMAN OF THE AD HOC WORKING GROUP OF SPECIAL COMMISSION 1

### Consideration of LOS/PCN/SCN.1/1992/CRP.18/Rev.3

1. During this session, intensive negotiations took place on the criteria for the identification of developing land-based producer States (DLBPS) actually or likely to be affected by seabed production, based on the revised suggestions put forward by the Chairman of the Working Group in LOS/PCN/SCN.1/1992/CRP.18/Rev.3. As a result of these negotiations, the resolution of the issue is very close at hand.

2. The revised suggestions contained in CRP.18/Rev.3 reflected the emerging trends from the discussion in the Group during the 1991 Fall meeting, on the suggestions presented in CRP.18/Rev.2. Those trends were reported by the Chairman in LOS/PCN/L.93, Annex, paragraph 7.

3. Some delegations still felt that the figures for dependency thresholds and trigger thresholds in CRP.18/Rev.3 were high, while others expressed their willingness to accept the figures.

4. Some delegations suggested that a so-called 'safeguard clause' similar to the one included in paragraph 2(b) of CRP.18/Rev.3 with regard to dependency thresholds, should also be included with regard to trigger thresholds. Some delegations had a favourable reaction to the suggestion, while others had difficulties with it. Consequently, two alternative proposals were put forward by the delegation of Indonesia and by the delegations of the European Economic Community and its member States; these proposals are contained in LOS/PCN/SCN.1/1992/CRP.18/Rev.3/Add.1 and Add.2, respectively. There were important differences between these two proposals. There was a lively discussion on these two proposals; further proposals and counter-proposals were made. Although there was no resolution, it is the assessment of the Chairman that the acceptance of the idea of a safeguard clause with regard to trigger thresholds is a significant step forward, and that with further efforts, the differences can be worked out.

5. With regard to the safeguard clauses, some delegations suggested the inclusion of certain guidelines, e.g., effects on the economy or social development of a DLBPS resulting from seabed production, to be taken into account by the Authority when it applies the safeguard clauses on a case-by-case basis. CRP.18/Rev.3/Add.1 contains a proposal addressing this matter. Other delegations pointed out that the expression 'special problems' included in CRP.18/Rev.3 would serve the same purpose, and therefore, the inclusion of specific guidelines was not necessary; however, they showed willingness to address the interests of the former group of delegations, and put forward certain proposals.

6. In relation to the three-year period specified in paragraph 2(c) of CRP.18/Rev.3, various suggestions were made by delegations, such as, two-year, three-to five-year, and five-year periods.

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7. With regard to the indicative nature of the figures for dependency thresholds and trigger thresholds, as suggested in paragraph 5 of CRP.18/Rev.3, various views were expressed. Some delegations preferred the expression 'for reference'. Some delegations suggested that without prejudice to the Authority's right to determine other figures taking into account the prevailing conditions in the future, the figures presented in CRP.18/Rev.3 should be used. A proposal to this end is contained in CRP.18/Rev.3/Add.1. There was support for this proposal from other delegtions. Some delegations were of the view that paragraph 5 of CRP.18/Rev.3 had a very 'commercialist' approach, and that the Authority should be allowed flexibility in deciding on a preferred approach.

8. Some editorial suggestions were made by delegations. For example, in order to be consistent with the provisional conclusions, the term 'minerals' should be replaced by 'metals' in the relevant cases.

9. In the view of the Chairman of the Group, compromises could be attempted along the following lines:

(a) As to a 'safeguard clause' with regard to trigger thresholds, the two proposals contained in CRP.18/Rev.3/Add.1 and Add.2, respectively, could be studied further;

(b) As to paragraph 5 of CRP.18/Rev.3, the broad-based support for the proposal contained in CRP.18/Rev.3/Add.1 could be built upon; and

(c) Certain editorial changes could be made in CRP.18/Rev.3.

Consideration of LOS/PCN/SCN.1/1991/CRP.19/Rev.2

10. The intensive negotiations on CRP.18/Rev.3 took up almost all the limited time available to the Working Group during this session; however, the Group had an opportunity to deliberate briefly on the second 'hard core' issue entrusted to it -- assistance measures for DLBPS including compensation. The deliberations were based on the suggestions put forward by the Chairman of the Group in LOS/PCN/SCN.1/1991/CRP.19/Rev.2. The Group will have to undertake intensive efforts to address this issue, which is, in a sense, the 'hardest core' issue within the mandate of the Special Commission.

Future work

11. In the assessment of the Chairman, on the basis of the deliberations on CRP.18/Rev.3, the 'hard core' issue of criteria for the identification of DLBPS actually or likely to be affected by seabed production, is very close to resolution, and further efforts will be expended to that end. The two remaining 'hard core' issues -- assistance measures for DLBPS including compensation, and effects of subsidized seabed mining -- on which some discussions were held previously, would be dealt with intensively in the future.

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Special Commission 1
New York, 10-21 August 1992

# STATEMENT TO THE PLENARY BY THE CHAIRMAN OF SPECIAL COMMISSION 1 ON THE PROGRESS OF WORK IN THAT COMMISSION

1. During this meeting, Special Commission 1 accomplished a great deal of work in substantive areas in spite of, or perhaps because of, the responsibility imposed on it for preparing a draft provisional report. Considerable progress was made in all three of the organs of the Special Commission - its plenary, the Ad Hoc Working Group and the Negotiating Group.

## Programme of work

2. As recommended by its Bureau, the Special Commission adopted its work programme for the current meeting: (a) the plenary would consider four matters: (i) the background paper prepared by the Secretariat, dealing with projection of demand, supply and price of the metals contained in polymetallic nodules (LOS/PCN/SCN.1/WP.15), (ii) the report of the Ad Hoc Working Group, (iii) the report of the Chairman's Negotiating Group and (iv) the preparation of the draft provisional report of the Special Commission; (b) the Ad Hoc Working Group would complete its work on the three "hard core" issues entrusted to it; (c) the Chairman's Negotiating Group would complete its first round of negotiations on the provisional conclusions contained in document LOS/PCN/SCN.1/1990/CRP.16/Rev.1 and, if time permitted, review and improve upon the outcomes of the first round.

3. The Special Commission held five meetings and the Ad Hoc Working Group held four meetings, sharing meeting time and facilities with the Special Commission. The Negotiating Group met six times. The Bureau of the Special Commission met twice.

## I. WORK OF THE PLENARY OF THE SPECIAL COMMISSION

### Consideration of document LOS/PCN/SCN.1/WP.15

4. This study deals with the salient features of projection exercises, discusses the factors that have to be kept in view in relation to projection, presents an overview of long-term projections of demand/supply/price of copper, nickel, cobalt and manganese that are available currently, emphasizing the various alternative methodologies used in projection exercises, and provides an indicative list of sources of data and information on projection. The study highlights the variability in the outcomes of projection exercises, especially in view of the wide range of forecasts about the growth of world economy in the future, the uncertainties with regard to whether and to what extent structural changes are occurring in the metal markets, and the possible biases influenced by the circumstances at the time of projection. Thus, the paper emphasizes the need for a flexible approach in studying projections of metal markets, particularly for the long-term future.

5. During the discussion, delegations pointed out the difficulties of projecting the future metal situation and the technically complex nature of projection exercises. In view of those difficulties and complexities, some delegations cautioned against the Authority embarking upon projection exercises. The document presented an overview of currently used projection methodologies, but in doing so, discussed old projections; some delegations pointed to the usefulness of keeping abreast of recent projections.

6. In general, delegations agreed with the conclusion contained in the document that available projections should be kept under review on a continuing basis.

7. With the consideration of this item on projection, the Special Commission completed its consideration of all the items it had planned to deal with, as proposed in its detailed work programme prepared at the inception of the Special Commission, at the second session (LOS/PCN/SCN.1/1984/CRP.3).

## II. WORK OF THE AD HOC WORKING GROUP

8. During the current meeting, the Ad Hoc Working Group, under the chairmanship of Mr. Luis G. Preval Paez (Cuba), completed its work on the three "hard core" issues entrusted to it. On the issue of criteria for the identification of developing land-based producer States likely to be or actually affected by seabed production, the final revisions made during this meeting are contained in document LOS/PCN/SCN.1/1992/CRP.18/Rev.4. While there was agreement in almost all the areas, the document reflects disagreement in two relatively small areas. However, the Chairman noted that in the course of deliberations on the document possibilities emerged for resolution in those two areas. On the issue of assistance measures for developing land-based producer States, including system of compensation/compensation fund, the final revisions made during the current

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meeting are contained in document LOS/PCN/SCN.1/1992/CRP.19/Rev.3. That document reflects agreement on the fundamental issue of the creation by the Authority of a fund for the purpose of assistance to developing land-based producer States, although there still remain certain areas of disagreement at the present time. On the issue of the effects of subsidized seabed mining, a compromise proposal has been worked out in the Group.

9. The report of the Chairman of the Ad Hoc Working Group is annexed to the present statement. The Special Commission would like to put on record its deepest appreciation for the untiring and solution-seeking efforts of the Chairman of the Group, Mr. Luis G. Preval Paez, and for the accomplishments of the Group on the "hard core" issues which seemed intractable at the outset.

## III. WORK OF THE CHAIRMAN'S NEGOTIATING GROUP

10. During the last session at Kingston, the Group dealt with the first nine of the 17 provisional conclusions contained in document LOS/PCN/SCN.1/1990/CRP.16/Rev.1. During the current meeting, the Group completed its deliberations on the remaining eight provisional conclusions and the two annexes. The Group then reviewed the whole set of 17 provisional conclusions and three annexes.

11. The outcomes of the negotiations in the Group are reflected in the revised versions of the provisional conclusions, annexed to the draft provisional report of the Special Commission. As is evident from these revisions, I felt that some agreements have been reached on a large number of issues under the wide range of items dealt with by the Special Commission, as per its mandate. There are, however, still some disagreements on certain issues; the three most significant ones, in my view are: (a) whether the assistance to be provided by the Authority to developing land-based producer States, and the fund to be created for this purpose, could be termed economic adjustment assistance or compensation; (b) what would be the role of the Authority vis-à-vis existing organizations in deciding upon and implementing assistance measures; and (c) whether the Authority would be in a position to contribute to the financing of assistance measures, when such assistance was provided prior to the commencement of commercial production from the Area. Delegations will review these revisions again.

12. There was, however, universal and unanimous agreement on the fundamental issue that developing land-based producer States, if they are likely to be or actually affected by seabed production in the future, shall be assisted. As Chairman of the Group and of the Special Commission, I should like to record my sincerest appreciation for the spirit of cooperation and compromise demonstrated by all members of the Group.

## IV. DRAFT PROVISIONAL REPORT OF THE SPECIAL COMMISSION

13. During this meeting, the draft provisional report of Special Commission 1 was prepared. As mentioned above, the revisions made, up until the present time, on the provisional conclusions, which constitute the draft provisional recommendations to the Authority on the matters mandated to it, resulting from the deliberations of the Special Commission, are annexed to the report. The list of documents of the Special Commission is included as an appendix to the report. The work of the Special Commission was of a highly technical nature, involving the utilization of data and information, research and analysis, studies and assessments. The documentation of the Special Commission which is a record of its work constitutes, therefore, an extremely useful reference and source material for the Authority. For this purpose, inter alia, the documentation of the Special Commission will be attached to this report as an addendum.

14. Due to time limitation, the Special Commission did not have an opportunity to consider the draft provisional report. The Special Commission plans to consider the report and its draft provisional recommendations during the next session and, I hope, will finalize them.

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## Annex

## REPORT OF THE CHAIRMAN OF THE AD HOC WORKING GROUP OF SPECIAL COMMISSION 1

### Criteria for identification of developing land-based producer States likely to be or actually affected by seabed production in the future

1. During the last session at Kingston, the Group had discussed this issue on the basis of the revised suggestions of the Chairman put forward in document LOS/PCN/SCN.1/1992/CRP.18/Rev.3. Those discussions pointed to a few areas where compromises could be reached. During the current meeting, building upon those trends, the Chairman issued revised suggestions in LOS/PCN/SCN.1/1992/CRP.18/Rev.4. There were basically four areas where revisions were made: (a) factors in relation to a safeguard clause with regard to the dependency threshold; (b) a safeguard clause with regard to trigger threshold; (c) nature of the figures for the dependency threshold and the trigger threshold; and (d) certain editorial changes.

2. In the safeguard clause with regard to the dependency threshold (CRP.18/Rev.3, para. 2 (b)), in response to concerns of some delegations, the Chairman made revisions that the Authority would make a determination on a case-by-case basis, taking into account all relevant factors, or alternatively, taking into account economic and social development factors.

3. In CRP.18/Rev.3, there was no safeguard clause with regard to trigger threshold. During the last session, there were proposals from Indonesia and the European Economic Community (EEC) on this matter; however, no agreement was reached. As a compromise, the Chairman utilized the idea of determination by the Authority on a case-by-case basis, an idea which has already been used in connection with the safeguard clause with regard to the dependency threshold. In recognition of the fact that such a safeguard clause may be too broad, the Chairman added that such a determination would be made subject to the considerations of cost-effectiveness and the Authority's work efficiency. He then combined the two safeguard clauses, one with regard to the dependency threshold and the other with regard to the trigger threshold, in one paragraph. He also included the suggestions by Indonesia and EEC, respectively. All the three alternatives were put forward in CRP.18/Rev.4.

4. With regard to the nature of the figures for the dependency threshold and the trigger threshold (CRP.18/Rev.3, para. 5), with a view to introducing flexibility to adapt to the realities of the situation but at the same time avoiding ad hoc changes, a new provision was suggested.

5. Since there was no agreement on the two matters mentioned in paragraphs 2 and 3 above, the revisions appeared within square brackets in document CRP.18/Rev.4. That document was forwarded to the Chairman's Negotiating Group. However, in the course of discussions in the Group on the suggestions contained in CRP.18/Rev.4, some general trends emerged towards agreement on the two matters. It appeared that, if in the combined safeguard clause

suggested by the Chairman in CRP.18/Rev.4 the two stages relating to the dependency threshold and the trigger threshold could be made distinct and clear, delegations might be able to accept it as a compromise. It also appeared that some kind of a combined wording to the effect that relevant factors including effects on economic and social development would be taken into account by the Authority in making the determination on a case-by-case basis, would also be acceptable to delegations. Finally, the three-year average mentioned in paragraph 2 (c) of CRP.18/Rev.4 to be modified to an average of three years at the least, could also be acceptable to all delegations.

### The issue of assistance measures for developing land-based producer States, including system of compensation/compensation fund

6. The latest revisions made by the Chairman on this issue had been contained in document LOS/PCN/SCN.1/1991/CRP.19/Rev.2. The most difficult matter on which the disagreement was most extensive, was the nature of the assistance measure of the Authority for developing land-based producer States. While one group of delegations strongly preferred a compensation measure, another group of delegations insisted on an economic adjustment measure alone. During the current meeting, the Chairman issued further revisions in LOS/PCN/SCN.1/1992/CRP.19/Rev.3, the main element of which was to combine both types of measures and to use wording to the effect that the Authority's measure would be an economic adjustment measure, or if the situation warranted, would be a compensation measure. Since there was no agreement on the issue, this wording appeared within square brackets.

7. CRP.19/Rev.3 was forwarded to the Chairman's Negotiating Group. In the course of the discussion in the Ad Hoc Working Group on CRP.19/Rev.3, no trend emerged pointing to resolution of the above matter.

### The issue of the effects of subsidized seabed mining

8. The Group had before it a proposal by the delegation of Australia (LOS/PCN/SCN.1/1989/CRP.15). One of the most important matters on which this issue hinged was the outcome of the Uruguay Round of Negotiations of the General Agreement on Tariffs and Trade (GATT). During the current meeting Australia, in consultation with a number of interested delegations, especially EEC and Canada, made a compromise proposal. There seemed to be general agreement in the Group on that proposal. Thus, that proposal has been forwarded to the Chairman's Negotiating Group.

### Concluding remarks

9. The Ad Hoc Working Group of Special Commission 1 completed its work on the three "hard core" issues entrusted to it. The outcomes of its deliberations have been forwarded to the Chairman's Negotiating Group during this meeting. The Chairman of the Group would like to put on record his appreciation for the cooperative and compromise-seeking attitude and endeavours of the members of the Group. The Chairman also expresses his thanks for the valuable advice and guidance provided to him by the Chairman of the Special Commission.

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